2603

SUPREME COURT OF THE UNITED STATES.

No. 256.

THE UNITED STATES, APPELLANTS,

vs.

HENRY F. TESCHMAKER, JOSEPH P. THOMPSON, GEO. H. HOWARD, AND JULIUS K. ROSE.

APPEAL FROM THE DISTRICT COURT UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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Notice of Appeal.

CLERK'S OFFICE OF THE DISTRICT COURT OF THE UNITED STATES,
for the northern district of California.

Whereas the commission constituted for the purpose of ascertaining and settling private land claims in the State of California, by the act of Congress of the United States of America, approved on the 3d of March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," did, on the thirteenth day of December, 1853, by their decision of that date, decide against the claim presented by the undersigned to the said commissioners, which claim is for land lying in the said northern district, and is No. 507 on the docket of claims before said board; and the said claimants being desirous that the said district court should reverse the said decision, now hereby file this notice, in the said clerk's office, of their intention to prosecute an appeal as is provided by the 12th section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year ending the thirteenth of June, eighteen hundred and fifty-three, and for other purposes," which said act was approved on the 31st of August, 1852.

H. F. TESCHMAKER,
JOSEPH P. THOMPSON,
GEORGE H. HOWARD,
JULIUS K. ROSE.
By THORNTON & WILLIAMS,
their Attorneys.

To the CLERK OF THE DISTRICT COURT
of the United States for the northern district of California.
Dec'r 24, 1853.

Endorsed: Filed Dec'r 24, 1854.
JNO. A. MONROE, *Clerk.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this fifth day of January, anno Domini one thousand eight hundred and fifty-three, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of H. F. Teschemacker et al., for the place named "Lup-Yomi," was presented and ordered to be filed and docketed with No. 507, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *January* 10*th*, 1853.

In case No. 507, H. F. Teschemacker et al., for the place named "Lup-Yomi," the deposition of Juan Castañeda, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H., Nos. 1, 2, and 3, and translations thereof marked annexed thereto, was filed.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *Jan.* 51*th*, 1853.

In the same case the deposition of Salvador Vallejo, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H. No. 1 annexed thereto, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *January* 19*th*, 1853.

In the same case the deposition of Wm. D. M. Howard, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *September* 6*th*, 1853.

Case No. 507 called; the counsel for the claimants read the evidence; argued, submitted, and taken under advisement by the board.

SAN FRANCISCO, *Dec'r* 13*th*, 1853.

In the same case Commissioner Alpheus Felch delivered the opinion of the board, rejecting the claim.

(Vide page 25 of this Transcript.)

Petition.

To the Board of Commissioners for ascertaining and settling private land claims in the State of California.

Your petitioners, Henry F. Teschemacker, Joseph P. Thompson, Geo. H. Howard, and Julius K. Rose, of San Francisco city and county, in the State of California, respectfully represent to your honorable board, that they claim a certain tract of land called "Lup-Yomi," containing fourteen leagues, more or less, situated in the county of Napa, in said State of California; that they claim the same in fee by virtue of a grant made to Salvador Vallejo and

Juan A. Vallejo, under the authority of the Mexican government, by Manuel Micheltorena, Mexican governor of the territories of the Californias, bearing date the 5th day of September, A. D. 1844, and approved by the territorial deputation on the .

Your petitioner further represent that the said grantee, Juan A. Vallejo, on the 30th day of December, A. D. 1849, transferred his right in said land to the said Salvador Vallejo, and on the 25th day of August, A. D. 1852, the said Salvador Vallejo and M'a Luz Camlle Vallejo, his wife, conveyed the same to your petitioners. The original deed of conveyance from Juan A. Vallejo to Salvador Vallejo, and also the original deed from Salvador Vallejo and wife to your petitioners, are herewith presented.

Your petitioners would further represent that the said original grantees took the possession of said tract of land soon after obtaining the grant—the boundaries thereof are well designated and defined—and that they and those claiming under them have been in the peaceable possession thereof ever since; and that they have no knowledge of any interfering claim.

Your petitioners present herewith the original grant of said land in the Spanish language, together with a translation of the same, and will make further proof of title if required by the board.

Your petitioners pray your honorable board to take into consideration their claim to said tract of land, and decree their title to be valid, and confirm the same. And your petitioners will ever pray.

By JAMES WILSON,
Their Agent and Attorney.

San Francisco, Cal., January 4th, 1853.

Filed in office Jan'y 5th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Juan Castaneda.

SAN FRANCISCO, *Jan'y 10th*, 1853.

On this day, before Com'r Hiland Hall, came Juan Castañeda, a witness in behalf of the claimant, H. F. Teschemacker et al., petition No. 507, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Juan Castañado; my age is forty-four years; I reside in the county of Sonoma, in this State; I know that the rancho called Lup-Yomi was granted to Salvador Vallejo and Juan Antonio Vallejo by Governor Micheltorena somewhere about the year 1844 or 1845; immediately after the grant they proceeded to occupy the land with cattle, and to build a house on the land, as I under-

stood; I went from Sonoma about half-way to the ranch with the cattle they drove to it; the cattle were taken from Napa; I was never on the land. I am acquainted with the handwriting of Salvador Vallejo, Juan A. Vallejo, and M. G. Vallejo, and also with that of Manuel Micheltorena and Francisco Arce. The signatures of the said several persons on a paper now shown me, purporting to be an application of Salvador and Juan A. Vallejo for a grant of land, and a grant to them from Governor Micheltorena, dated September 5th, 1844, I believe to be their genuine signatures. Said paper is hereto attached, and marked H H No. 1. A paper is also shown me, purporting to be a transfer from Juan A. Vallejo to Salvador Vallejo, and dated 30th December, 1849. The signatures of Juan A. Vallejo, José Ant'o Estrada, and Juan Soberaner, with which I am acquainted, appearing on said paper, I believe to be genuine; it is hereto annexed, and marked H H No. 2. A document is also shown me, purporting to be a conveyance from Salvador Vallejo and his wife to Henry F. Teschmacker, Joseph P. Thompson, George H. Howard, and Julius K. Rose, dated 25 of August, 1852; my name is on said document as a subscribing witness; I was present, and saw said Salvador Vallejo and his wife make her mark on the same, as and for her signature. Said document is hereto attached, and marked H H No. 3.

J. DE CASTAÑEDA.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Jan'y 10th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Salvador Vallejo.

SAN FRANCISCO, *Jan'y 15th*, 1853.

On this day, before Com'r Hiland Hall, came Salvador Vallejo, a witness in behalf of the claimant, H. F. Teschemacker, petition No. 507, and was duly sworn, his evidence being interpreted by the secretary.

The United States associate law agent was present.

In answer to inquiries by counsel for the claimant, the witness testified as follows:

My name is Salvador Vallejo; my age forty years, and I reside in Sonoma; I know the rancho Lup-Yome; I have known it from the year 1836; I first became acquainted with the place when I was an officer of the Mexican army in an expedition against the Indians; I was pleased with it, and took possession of it by leaving some horses on it; my brother, M. G. Vallejo, was at that time director of colonization on the northern frontiers, where the land is situated; myself and my brother, Juan A. Vallejo, made an application to

the said M. G. Vallejo for permission to occupy the land, which was granted in 1839; immediately after such permission was granted, we placed on the land about one thousand head of cattle, between three and four hundred horses and mares, and from 800 to 1,000 hogs; we built a house on the land the same year, and also corrals; we left an overseer and servants there in charge of the place and stock; we afterwards applied to Governor Micheltorena for a title to the land, which was granted to us. A paper, purporting to be such a grant, dated 5th of September, 1844, now shown me, is the title-paper issued to us; said paper is attached to the deposition of Juan Castañada, heretofore taken in this case. A paper is now shown me purporting to be a map or sketch of the land; it is a faithful representation of the land; I cannot say whether it is the identical paper presented to the governor when the title was applied for or not; it is hereto attached, and marked H H No. 1. Our petition to the governor was accompanied by a map of the land asked for; I believe the map now here was one made by myself, and that the map which was furnished with the petition was one made by Jasper O'Farrell from this. A paper is also shown me, purporting to be a conveyance from Juan A. Vallejo to me, dated 30th December, 1849. It is a general instrument of conveyance executed by my brother; his signature to it is genuine; said paper is attached to the deposition of Juan Castañada, heretofore taken in this case, and marked H H No. 2. My brother and myself continued to occupy the land, with stock, until he conveyed to me as above; and I continued a similar occupancy until I sold to Henry F. Teschemacker and others a few months ago.

In answer to inquiries by associate law agent, the witness says: I was an officer in the Mexican army from 1836 until the country was conquered by the United States; I was a captain of cavalry; my brother, Juan A. Vallejo, was not in the army; it was customary, as the Mexican government had no money, to pay the officers for their services, on the application of the officers to grant them lands, which they were to occupy with the consent of the civil magistrate. The title-papers from Governor Micheltorena *was* received by me in a packet, by a courier or express, and was not delivered me by the governor.

SALVADOR VALLEJO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Jan'y 15th, 1853.

GEO. FISHER, *Sec'y.*

Deposition of Wm. D. M. Howard.

SAN FRANCISCO, *Jan'y 19th*, 1853.

On this day, before Com'r Harry J. Thornton, came Wm. D. M. Howard, a witness in behalf of the claimants, H. F. Tesche-

macker et al., petition No. 507, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

Questions by Claimant.

Question 1st. What is your name, age, and place of residence; and how long have you lived there?

My name is Wm. D. M. Howard, my age is thirty-three years, and my residence San Francisco, California, where I have resided between eleven and twelve years.

Question 2d. Are you acquainted with the handwriting of M. G. Vallejo, Manuel Micheltorena, and Francisco D. Arce; *if* you look upon the document here shown to you and marked Exhibit Doc. H H No. 1 to the deposition of Juan Castañada, heretofore taken in this case, and state whether the names of those persons, where they are written and signed in and upon said document, are their genuine signatures?

Ans. I am acquainted with the handwriting of those persons named above, having seen them write; I have examined the said document, and state that the signatures of those persons on and to the same are their genuine signatures.

WM. D. M. HOWARD.

United States law agent present.

Sworn to and subscribed before me this 19th Jan'y, 1853.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office Jan'y 19th, 1853.

GEORGE FISHER, *Sec'y.*

E.—*Map and letter from Jasper O'Farrell—Doc. H H No.* 1, *annexed to the Depo. of Salvador Vallejo, before Com'r Hall, Jan'y* 15, '53.

ANALY, (BODEGA,) *Nov.* 30*th*, '52.

F. TESCHEMAEKER, Esq.

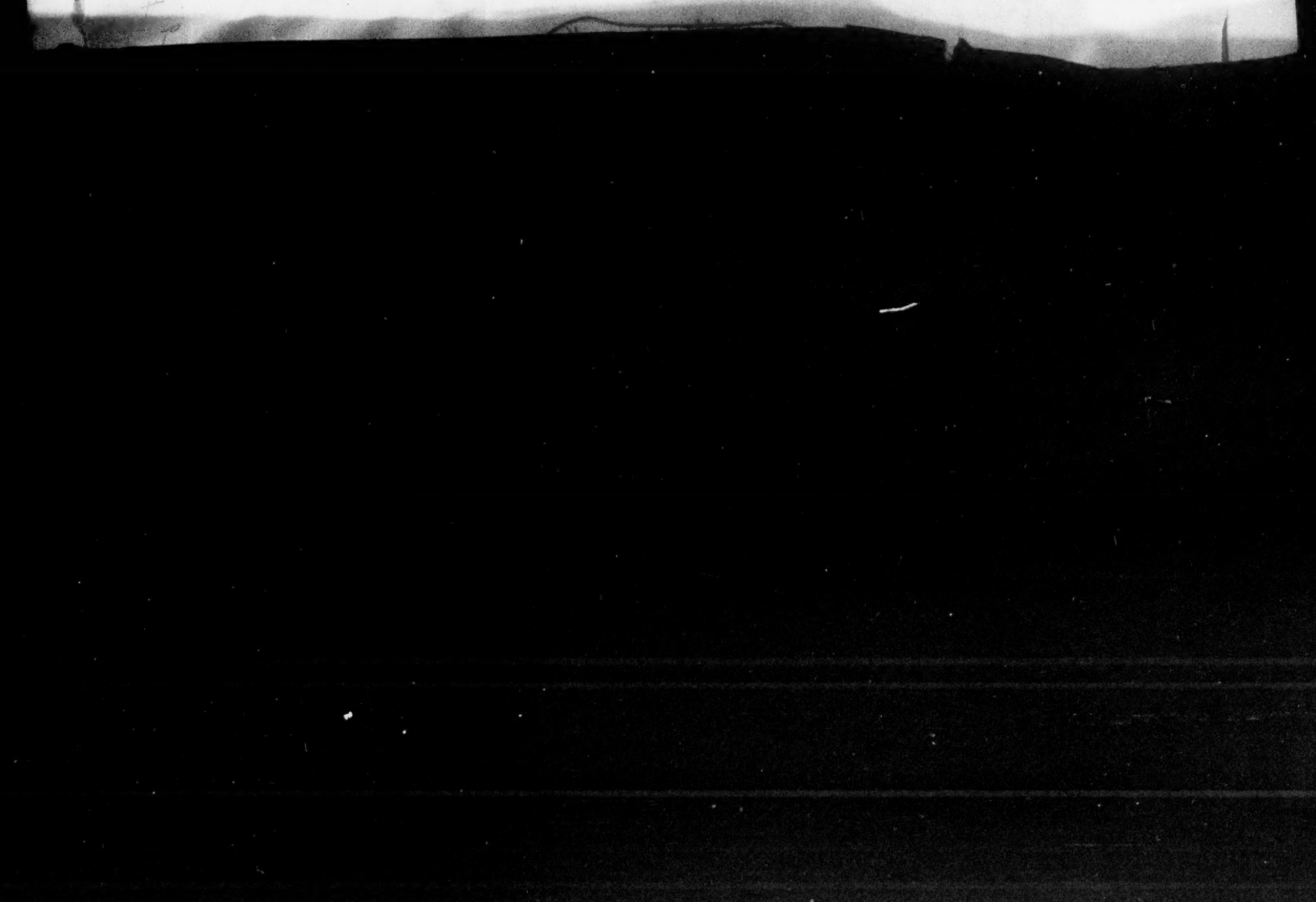
DEAR SIR: I have at length succeeded, after a lengthy search, in finding the original diseño of Don Salvador Vallejo's grant at Clear Lake. I can, if necessary, certify that Sal'r gave me the enclosed map for the purpose of having it copied, which I made (keeping the original) and sent to him, and which he ought to have; however, I presume this will be of more value to you, and I hope will be all-sufficient.

I am, dear sir, yours, truly,

JASPER O'FARRELL.

Filed in office Jan'y 5th, 1853.

GEO. FISHER, *Sec'y.*



[*Here follows map—original, page* 9.]

Doc. H H No. 1, *annexed to the Deposition of Juan Castanada.*

S'or Comandante Generál y Director de la Colonization de este Frontera:

Salvador y Juan Ant'o Vallejo ante V. S. como mejor haya lugar en d'ho esponen, que deseando establecer un rancho en la laguna de Lup-Yomi que se haya al norte de este lugar veinte leguas, cuyo terreno se haya aun inculto y en poder de multitud de tribas salvages, las qe. han causado y causan diariamente tantas depredaciones como a V. S. le consta y qe. seria largo referir pr. su constantes, y estando ambos satisfechos de no pertenecer a ninguna corporacion, ni particulares, solicitan de V. S. qe. en virtud de sus facultades, les conceda ocho leguas de tierra a cada uno en d'cho lugar, ofreciendo domesticar aquellos tribas y reducir las pr. medios suaves si es posible à mejor systema de vida. Tiene ademas el primera de los es ponentes qe. observar a V. S. qe. estando en actual servo. en la clase de Capitan de Caballeria, y no habiendo recibido sus pagas, ofrese dos mil y quinientos ps. pr. la parte que se le conceda, ase gurando qe. sin hacer meritos de sus servicios, hara cuanto le sea posible pr. réducir aquellas tribas al orden, pa. cuyo fin a imbertido grandes sumas, como á V. S. le consta, a fin de conseguir tal proposito. P. F., A. V. S. reitera el pedido que menciona esperando se sirva decretar de conformidad, de cuya gracia se viviran reconocidos.

Sonoma, Octubre 11, de 1838.

SALVADOR VALLEJO,
JUAN A. VALLEJO.

SONOMA, *Marzo* 15, *de* 1839.

Los interesados en la presente instancia pueden occupar las tierras que solicitan en la Laguna de Lupa-Jormi, en concepti de que esta concesion se sujetará a pedir la confirmacion del gob'o departamental, quien estendera los titulos de costumbre. Asi mismo los interesados procuraran reducir el caracter agreto de los Indios asegurandoles que desea el gob'o su trato y amistad.

M. G. VALLEJO,
Director de la Colon'n de la front'a de Sonoma.

Endorsed: Deed for the rancho of Lup-Yomi.

Filed for record Nov. 27, 1850, at 2 o'clock p. m., and recorded in book A, page 209, archives of Napa county.

Recording fees, $4 00.

Sello Quinto, Un Real.

Habilitado provisionalmente por la aduana maritima del puerto

de Monterrey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y cuatro, y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[Ad'a Mari'a de Mont'y.
Place of the E gle.]

Manual Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante de la Plana Mayor del mismo, Gobernador y Comand'te General é Inspector del Departam'to de las Californias.

Por cuanto los ciudadanos, Salvador y Juan Antonio Vallejo, han pretendido para su beneficio personal el terreno conocido con el nombre de la Laguna de Lup-Yomi, al norte de Sonoma, practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por las leyes y reglamentos: usando de las facultades, que me son conferidas à nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarandoles la propiedad de él por las presentes letras sujetandose a las condiciones siguientes:

1a. No podran venderlo ni inagenarlo, hipoticarlo ni otro gravamen alguno.

2a. No impederan el cultivo y demas beneficios que han disfrutado y disfrutan los indigenos que actuelmente se hallan establecidos.

3a. Podran cercarlo sin prejudicar las travesias, caminos, y servidumbres; lo disfrutaran libre y esclusivamente, destinando al uso que mas les accomode.

4a. Solicitaran del juez respectivo que les de la posecion juridica, en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites, se pondran las mohoneras y algunos arboles frutales, de alguna utilidad.

5a. El terreno de que se hace donacion es de diez y seis sitios de ganado mayor, poco mas ó menos segun esplica el diseño respectivo. El juez que diere la posecion, lo hara medir conforme à ordenanza.

En consecuencia mando que sirviendoles de titulo el presente y teniendose por firme y valedero, se tome razon de él en el libro respectivo y se entregue a los interesados para su resguardo y demas fines.

Dado en Monterey a cinco de Setiembre, del año de mil ochocientos cuarenta y cuatro.

MAN'L MICHELT'A.

Gueda tomada razon de este despacho en el libro respectivo a fo. cuatro.

Pose enfermedad del com.

FRANCO. C. ARCE.

Endorsed:

Deed. Manuel Micheltorena to Juan A. and Salvador Vallejo.
Filed for record, Nov. 27, 1850, at 2 o'clock p. m., and recorded in book A, pages 209 and 210, archives of Napa Co.
Recording fees, $4 00.
Filed in office Jan'y 10th, 1853.

GEO. FISHER, *Sec'y.*

Translation of Doc. No. 1, *annexed to the Depo. of Juan Castanada, taken before Com'r Hiland Hall.*

Senior Commandant General and Director of the Colonization of this Frontier:

We, Salvador and Juan Antonio Vallejo, before your honor, as best we may in law, represent, that desiring to establish a rancho in the Laguna de Lup-Yomi, situated twenty leagues north of this place, which tract of land is still uncultivated and in the power of a multitude of savage tribes, who have committed, and daily commit, so many depredations, as is known to your honor, and to which it would be too much to refer to, as they are self-evident, and being both of us satisfied that it does not belong to any corporation or individuals, we earnestly entreat your honor, in virtue of your faculties, to grant to each of us eight leagues of land, in said place, we offering to domesticate those tribes and to convert them by gentle means, if possible, to a better system of life.

The first of the petitioners has, moreover, to observe to your honor, that being in actual service, in the quality of captain of cavalry, and not having received his pay, he offers twenty-five hundred dollars for the portion which you may grant him, assuring you that, not claiming any merit for his services, he will do all in his power to bring those tribes to law and order, for which purpose he has invested large sums, as your honor well knows, in order to obtain such purpose.

Wherefore to your honor we reiterate our demand, hoping that you will be pleased to decree conformably, for which favor we will remain grateful, &c.

Sonoma, October 11th, 1838.

(Signed) SALVADOR VALLEJO,
" JUAN A. VALLEJO.

SONOMA, *March* 15*th*, 1839.

The interested parties, in the present instance, can occupy the lands they petitioned for in the Laguna de Lup-Yomi, for the accomplishment of which object they will hasten to ask the confirmation from the departmental government, which will issue the customary titles; at the same time, also, the interested parties shall

endeavor to reduce the wild nature of the Indians, assuring them that the government wishes a treaty and friendship with them.

M. G. VALLEJO,
Director of the Colonization of the Frontier of Sonoma.

Stamp fifth—one Real.

Provisionally authorized by the maritime custom-house, of the port of Monterey, in the department of the Californias, for the years 1844 and 1856.

(Signed) PABLO DE LA GUERRA.

MICHELTORENA.

[SEAL.]

Manuel Micheltorena, General of Brigade of the Mexican army, Adjutant General of the staff of the same, Governor and Commandant General, and Inspector of the Department of the Californias.

Whereas the citizens Salvador and Juan Antonio Vallejo have, for their own personal benefit, petitioned for the tract of land known by the name of La Laguna de Lup-Yomi, north of Sonoma, the proper steps and investigations being previously taken, as required by laws and regulations, using the faculties conferred on me, in the name of the Mexican nation, I have granted them the aforesaid land, declaring unto them the ownership of it by these presents, they submitting themselves to the following conditions:

1st. They may not sell or alienate it, nor mortgage it with any other incumbrance.

2d. They will not prevent the cultivation and other benefits which have been and are enjoyed by the Indians actually established there.

3d. They may enclose it without injuring the crossings, roads, and servitudes; they may enjoy it freely and exclusively, making such use or cultivation of it as they may see fit.

4th. They shall request the proper magistrate to give them the juridical possession in virtue of this patent, by whom the boundaries will be marked out, in the limits of which he shall place the bounds and some fruit-trees of a useful character.

5th. The land of which donation is made is sixteen square leagues (sitios de ganado mayor), more or less, as shown by the respective map. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance.

In consequence I order that, this present serving them for a title, and being held as firm and valid, note be made of it in the respective book, and it be delivered to the interested parties for their security and other purposes.

Given in Monterey, on the 5th of September of the year 1844.

(Signed) MANUEL MICHELTORENA.

Note has been made of this decree in the proper book, on folio 4.

In the absence of the com.

(Signed) FRANCO. C. ARCE.

Filed in office Jan'y 10th, 1853.

GEO. FISHER.

Document H H No. 2.—Deed from Juan A. Vallejo to Salvador Valleje.

En el pueblo de Monterey de la Alta California à los treinta dias del mes de Deciembre, del año de mil ochocientos cuarenta y nueve, yo, Juan Antonio Vallejo, dejo qe. por mi y en nombre de mis hijos, heredores, sucesores, y de quien ellos habieren titulos voz y causa en cualquiera manera, vendo y doy en venta, real y imaginacion perpetua pr. juro de heridad para siempre jamas al S'or Dn. Salvador Vallejo vecino del Pueblo de Sonoma y a los suyos, el terreno de la Laguna de Lup-Yomi en cantidad de ocho sitios de ganado mayor q'e me pertenece en posesion y propiedad, segun consta por los titulos de pertenencia cuya concesion la obtuvimo, en este mismo Pueblo el dia cinco de Setiembre, del año de mil ochocientos cuarenta y cuatro, por el s'or gobernador de departamento Dn. Manuel Micheltorena pr. los cuales corresponde *corresponde*, en posesion y propiedad al otorgante, declaro no tenerla vendicta ni empeñada y q'e esta libre de tribato menosia, capallania, paronate, fianza, de otro gravamen, por perpetua, temporal, especial, general, tacito y espreso, y como tal se lo vendo con todas sus entradas, salidas usos, costumbres, regalias, servidumbres, y demas cosas, anexas, q'e patenido, tiene, y le pertenecen segun derecho pr. cantidad recibida innumerata pecuneria. Y desde hoy en adelante para siempre se desapodera, disiste, quita, y aparta y a sus herederos y sucesores del domeni ó propiedad, posesion, titulo, voz, recurso, y otro cualquier derecho q'e se competá al renunciado terreno de Lup-Yomi, lo cedo, renuncia y tras para con las acciones, reales, temporales, y personales, utiles, mixtas, directas, y ejecutibas en el comprador y en quien la say a represente, p'a q'e la posée, goze, cambrie, enajene, use, y dispongas de ella a su eleccion, como de cosa suy a adquirida con legitimo y justo titulo. Y el confiere poder irrevocable con libre, franca, y general administracion, y constituye procurador, actor en su propia causa p'a q'e de su autoridad entro y se a podore del mencionado terreno y preceda la real tenencia y posecion q'e por derecho le competa.

JUAN A. VALLEJO.

Testigo: JUAN SOBERANO,
Testigo: JOSÉ ANTO. ESTRADA.

Endorsed:

Deed.

Juan A. Vallejo to Salvador Vallejo. Filed for record Nov'r 27, 1850, at 2 o'clock p. m., and recorded in book A, pages 210 and 211, archives of Napa county.

Recording fees, $5 00.

Filed in office Jan'y 5th, 1852.

GEO. FISHER, *Sec'y.*

Translation of Doc. H H No. 2, ann'd to the dep'n of Juan Castanada before Com'r H. Hall, January 10th, 1853.

At the pueblo of Monterey, of the Upper California, on the thirtieth day of the month of December, in the year one thousand eight hundred and forty-nine, I, Juan Antonio Vallejo, hereby declare, that for myself, and in the name of my children, heirs, successors, and of whomsoever of them who may acquire right, power, and cause in any way whatsoever, I hereby sell, and grant in actual sale and perpetual alienation, perpetually and forever, unto Señor Don Salvador Vallejo, a resident of the pueblo of Sonoma, his heirs, administrators, and assigns, the tract of land of the Laguna de Lup-Yomi, in the extent of eight sitios de ganado mayor, pertaining to me by possession and fee, as appears from the titles of right of property, which grant we obtained at this same pueblo on the 5th day of September, in the year 1844, from s'r governor of the department, Don Manuel Micheltorena, by which title the same pertains in possession and fee to the vendor. I declare not having sold it or pledged, and that it is free from taxes, charges, ecclesiastical tribute, patronage, security, and other incumbrances, perpetual, temporal, special, general, tacit or expressed, and as such I sell it, with all its right of ingress and egress, uses, customs, privileges, easements, and other appurtenances, which the same has had, and has, and which belong thereto according to law, for the sum received in numerata pecunia. And from this day, henceforward and forever, he *disposses* himself, and his heirs and successors, from the domain or fee, possession, right, resources, and any other right whatsoever appertaining to the said tract of land of Lup-Yomi; and he yields, relinquishes, and transfers the same, with the actual, temporal, and personal actions, useful, mixed, direct, and exclusive, unto the vendee or whomsoever may represent him, that he may possess, enjoy, exchange, alienate, use, and dispose of it at his discernment, as of his own property acquired by legitimate and right title. And hereby he confers upon him irrevocable power, with free and general administration, and constitutes him attorney and plaintiff in his own cause, that he may of his own authority enter and possess himself of the said tract of land, and

to hold actual possession thereof as pertaining to him according to law.

(Signed) JUAN A. VALLEJO.

Witness: (Signed) JUAN SOBERANER.
Witness: (Signed) JOSÉ ANTO. ESTRADA.

I hereby certify that the foregoing is a true and correct translation of a Spanish document in case No. 507, now on file in this office.

Office of the Secretary of the U. S. land commission to ascertain, &c., San Francisco, Cal'a, this 9th day of December, A. D. 1853.

GEO. FISHER, *Sec'y.*

Filed in office Jan'y 10th, 1853.

GEO. FISHER, *Sec'y.*

Opinion of the Board by Com'r Alpheus Felch.

HENRY F. TESCHMACKER et al.
vs.
THE UNITED STATES.

For the place called "Lup-Yomi," containing fourteen square leagues of land, situated in Napa county.

The claimants allege that the land in question was granted by Governor Manuel Micheltorena to Salvador Vallejo and Juan A. Vallejo, on the 5th day of September, 1844; that said Juan A. Vallejo, by deed dated December 30th, 1849, conveyed his interest to said Salvador Vallejo, who, by deed dated August 25th, 1852, executed by himself and wife, conveyed the entire premises claimed in the case to them. The two deeds above mentioned are given in evidence. The entire premises granted are alleged to contain sixteen square leagues of land, fourteen of which are conveyed to and claimed by the petitioners.

In proof of the grant from the government to Salvador and Juan A. Vallejo, the claimants have given in evidence, duly proved, an original petition signed by them, dated October 11, 1838, directed to the commandant general and director of colonization of the frontier, and a written permission, in accordance therewith, by said director to occupy the land until they could apply to the proper authorities for a grant of it, which permission of occupancy bears date on the 15th day of March, 1839.

They have also given in evidence the original grant to said Salvador and Juan A. Vallejo, issued by Governor Micheltorena, dated September 5th, 1844.

In their petition to the director of colonization, it appears that the land is in the country possessed by the Indian tribes, whom they propose to domesticate, and if possible to convert to a better system of life; and in the concession the director enjoins upon

them the performance of this duty. One of said applicants also alleges that the government is indebted to him for services, and he proposes to pay twenty-five hundred dollars for the portion which may be granted to him. No testimony is given of any pecuniary payment or allowance for the grant; nor, indeed, of any connection between the allowance of the temporary occupancy by the director and the grant by the governor, *is* any allusion made in the latter to the former, or to anything done under it, as a consideration for the grant. The title issued by Governor Micheltorena contains no unusual condition, except the reservation of the right of cultivation and other benefits enjoyed by the Indians actually established there.

This grant must then be regarded as one issued under the colonization law of 1824 and the regulations of 1828, and the rights of parties under it must be adjudicated by the ordinary rules applicable in such cases. It has been several times heretofore decided by this commission, that every grant of land under the regulations of 1828 implied a condition to inhabit or cultivate it; and that this was to be done, where no specific period was mentioned, within a reasonable time.

The deposition of Salvador Vallejo shows that he first knew the land when on an expedition into the Indian country in 1836, and he then left upon the premises some horses; and he and his brother subsequently applied for a grant of the premises to the director of colonization for permission to occupy the land which was granted in 1839, and they immediately afterwards placed upon it about one thousand head of cattle, between three and four hundred horses and mares, and from eight hundred to a thousand hogs; that they built a house on the land the same year, and also corrals, and left an overseer and servants there in charge of the place and the stock. He adds that they afterwards applied to Governor Micheltorena and obtained the grant which is given in evidence, and that they continued to occupy the land, with stock, until they disposed of their respective interests therein. The witness Castañada also speaks of cattle being taken there by grantees, but he never was at the place, and has no personal knowledge about it. The whole case, so far as proof of occupation of the premises is concerned, rests on the testimony of Salvador Vallejo, as above recited.

From this proof it is evident that neither of the grantees ever lived on the land claimed, and no portion of it appears ever to have been cultivated by them. The facts that they had cattle, horses, and hogs on the land, with servants to take care of them, is all that is made out by the proofs. The grant, it seems to me, contemplated something more than this. Under the Mexican law the grantees could have done all this on any part of the national domain without a grant. The right to the common use of the vacant land for this purpose pertained to every citizen of the republic.

By the laws of the Indies, the pastures, mountains, and waters in the provinces were made common to all the inhabitants thereof, with liberty to establish their corrals and herdsmen's huts thereon, and freely to enjoy the use thereof; and a penalty of five thousand ounces of gold was imposed on every person who should interrupt this common right. 2 White's Recop., 56.

It is said by the witness that a house was built on the premises in 1839, but it is evident from the testimony that it was never occupied by either of the grantees, nor is there anything to indicate that they ever designed to occupy it. It was built the same year in which the temporary occupancy was given, and at the time the cattle were taken on to the place. The inference from the whole case is irresistible that the house was intended for the use of the herdsmen, in their temporary occupancy of the place, and was a structure of the very character which the law gave every citizen the right to erect for his herdsmen on the national lands. And the claimants have not shown that even this structure continued on the premises up to the time that the grant was obtained, or that any other improvements were made on the place under the grant.

The object of granting title to individuals of portions of the vacant lands, to hold by exclusive right and full property, was to secure the settlement and cultivation of the country. This was the consideration of the grant, and the larger and more important the tract of land conceded the more imperative would seem to be the obligation to perform the conditions. In this case the quantity conceded, sixteen square leagues, is large, and it is represented by the grantees as a desirable portion of the country. They first obtained a permission of temporary occupancy in 1839, then a grant from the governor in 1844; yet during the whole period, from that time to the present, an interval of some fifteen years, nothing more is shown to have been done by the grantees than was done by them before the grant from the governor was obtained, and nothing more than every Mexican citizen had a right to do on any portion of the unconceded public lands.

The claim of the Vallejos under the grant was not a title to the land; it was inchoate and incomplete, and was at most a mere equity. They appear to have *to* little in the performance of the condition contemplated by the grant to entitle them to be made owners of the land.

They have obtained no title in law, and have earned no claim to one in equity, either from the Mexican government or the American.

But there is another insuperable objection to a confirmation of this claim. Its location *are* boundaries are not given with sufficient definitiveness to identify the premises.

The recital in the grant states that the petitioners had solicited the land known by the name of La Laguna de Lup-Yomi; the grant is made with the specification, that "the land of which donation is

made is sixteen square leagues, more or less, as shown by the respective map."

The grantees are required to request the juridical possession of the proper magistrate, who shall cause it to be measured, and the proper landmarks to be placed, and some fruit-trees planted to designate the limits.

There are no monuments or boundaries specified, no description other means of locating the lands granted in the region of conceded land occupied by the Indian tribes, and separating it from the great wilderness.

Two resources only remained for ascertaining and defining the land which the grantees could be entitled to call their own. The first was the map to which reference was made in the grant for a description of the premises; and the second are, actual measurement on the ground according to the terms of the grant by a magistrate authorized under the Mexican laws to give the juridical possession to the grantees of the land he might hold in full property, with its lines clearly defined, and its permanent monuments established.

To designate the land the claimants offered in evidence, on the hearing, a map purporting to contain a delineation of the place designated in the grant. It was objected by the law agent, that it was not proved in such a manner as to entitle it to be regarded as proof in the case. It was received, subject to the objection. And we are not to decide whether it was entitled to be regarded as proof in the case or not.

The only testimony relative to the map is found in the deposition of Salvador Vallejo. He states, in substance, that the map or sketch is a faithful representation of the land; he cannot say whether or not it is the same that was presented to the governor; but one was presented with the petition for the grant. He believes this map was made by himself, and that the map furnished with the petition was one made by Jasper O'Farrell from this.

This testimony does not show that the map here presented is the one which was before the governor when he made the grant, and which is referred to in it. On the contrary, the witness believes that this was made by himself, and the other was made by O'Farrell. He does not say that O'Farrell's was a copy of this, or that he saw O'Farrell make his map from this, or that he ever compared the two. The identical map which was before the governor is by the reference in the grant made a part thereof, and the proof which shall give the claimants the benefit of the description of the land as delineated thereon must be proof of the identical map constituting a part of the espediente which was before him when the concession was made. Another map, although sworn to be an accurate delineation of the premises, does *no* aid for this purpose. For the description of the land granted we can go only to the grant, or

where reference is made in it to another document for such description, to that document itself; or, if lost or destroyed, to legal evidence of its contents. The proof in this case does not show that the map offered in evidence is either the identical map referred to in the grant, or a copy of it. It cannot, therefore, be *be* regarded as such evidence, and without it the description of the grant is not sufficient to describe and locate the land granted, or separate any portion under the grant from the national domain.

Nor has the segregation ever been made by juridical measurement and delivery possession of these lands with ascertained boundaries to the grantees as contemplated by the conditions of the grant. The case is barren of all evidence on the subject.

For these reasons, then—first, the want of equity growing out of the non-performance of the duty of the grantees in reference to settlement and cultivation of the land; and secondly, the want of proof of proper boundaries, identity, and segregation of the premises granted—the claimants have failed to sustain the claim of the grantees to the premises. They took under their deed of conveyance no greater interest or more perfect right than they possessed, and have proved no additional equities founded on any action of their own. They cannot, therefore, be entitled to a title to the property.

Claim rejected.

Filed in office Dec'r 13th, 1853.

GEO. FISHER, *Sec'y.*

Decree.

HENRY F. TESCHEMACKER et al.
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioners is not valid, and their application for a confirmation thereof is therefore denied.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office Dec'r 13th, 1853.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-two pages, numbered from 1 to 32, both inclusive, to contain a true, correct, and full transcript

of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 507 on the docket of the said board, wherein H. F. Teschmacker et al. are the claimants against the United States, for the place known by the name of Lup-Yomi.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this day of A. D. 1854, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Endorsed: Filed Sep. 13, 1854.

JNO. A. MONROE, *Clerk.*

Petition.

To the hon'ble District Court of the United States in and for the northern district of California.

Your petitioners, Henry F. Teschmaker, Joseph P. Thompson, George H. Howard and Julius K. Rose, respectfully represent to this hon'ble court, that they did heretofore, as will fully appear by the transcript of the proceedings had before the board of commissioners to ascertain and settle the private land claims in the State of California, now on file in this court, present before the said board, whilst holding its session in the city of San Francisco, a claim for the land lying and being in the State of California and northern district thereof, and described in the said transcript, being claim No. 507 of the list of claims presented to the said board, under and by virtue of the act of Congress approved on the 3d of March, 1851. The claim of these petitioners is founded upon a grant made by Manuel Micheltorena under authority of the Mexican government, as governor of the department of the Californias, on the 5th day of September, 1844, to Salvador Vallejo and Juan A. Vallejo, and upon the following mesne conveyances, to wit, the deed of Juan A. Vallejo to Salvador Vallejo for his undivided proportion of said tract, dated the 30th day of December, 1849, and on the deed of the said Salvador Vallejo and Ma. Lery Carrillo his wife, to these petitioners, dated on the 25th day of August, 1852, for the said tract of land, only with the exception and reservation therein contained. All of which said grant and conveyances are fully set forth, with the proof and testimony, in the transcript aforesaid.

Your petitioners respectfully represent, that their said claim has been rejected by the said board, and that they now here humbly

pray this hon'ble court to review the decision of the said board and to decide on the validity of their claims.

HENRY F. TESCHMAKER,
JOSEPH P. THOMPSON,
GEORGE H. HOWARD,
JULIUS K. ROSE,
By their counsel, THORNTON & WILLIAMS.
SCOTT & GRANGER.

I acknowledge due service of the above petition.
September , 1854.

S. W. INGE.

After the words "transcript aforesaid," fourth line from bottom, page 1st, insert the following:

And your petitioners would further state, that on the 13th day of September, 1854, the said transcript, and on the 21st day of September of same year, and previously on the 24th day of December, 1853, notice of their intention to prosecute an appeal, as required by law, were filed in the clerk's office of this hon'ble court, as will appear by the record.

THORNTON & WILLIAMS.

Annexed by consent. June 13, 1855.

A. GLASSELL,
Acting U. S. Dist. Att'y, &c.

Endorsed: Filed September 21, 1854.
JNO. A. MONROE, *Clerk.*

Notice of Appeal.

CLERK'S OFFICE OF THE DISTRICT COURT OF THE UNITED STATES
For the Northern District of California.

Whereas the commission constituted for the purpose of ascertaining and settling private land claims in the State of California, by the act of Congress of the United States of America, approved on the 3d of March, 1851, entitled An act to ascertain and settle the private land claims in the State of California, did, on the 13th day of December, 1853, by their decision of that date, decide against the claim presented by the undersigned to the said commissioners, which claim is No. 507 on the docket of claims before said board, and is for land lying in the said northern district, and the said claimant being desirous that the said district court should review the said decision, now hereby files this notice in the said clerk's office of his intention to prosecute an appeal, as is provided by the 12 section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the year

ending the 30th of June, 1853, and for other purposes;" which said act was approved on the 31st of August, 1852.

HENRY F. TESCHMAKER,
JOSEPH P. THOMPSON,
GEORGE H. HOWARD,
JULIUS K. ROSE,
By their counsel, SCOTT & GRANGER.
THORNTON & WILLIAMS.

Endorsed: Filed Sept. 21, 1854.
JNO. A. MUNROE, *Clerk.*

At a special term of the district court of the United States of America for the northern district of California, held at the court-house in the city of San Francisco, on Saturday, the 23d day of September, in the year of our Lord one thousand eight hundred and fifty-four .Present, the Hon'ble I. S. K. Ogier, district judge.

Order allowing further Evidence to be taken.

HENRY F. TESCHMACKER et als.
vs.
THE UNITED STATES.

On motion of counsel for the plaintiffs in the above cause, and with the consent of the U. S. dist. att'y, ordered by the court that leave be granted to all the parties to take further evidence in this cause, upon reasonable notice before the U. S. comm'r of this court.

Endorsed: Filed Sept. 23d, 1854.
JNO. A. MUNROE, *Clerk.*

Deposition, on the part of the Claimants, of Bedney F. McDonald.

THE UNITED STATES
vs.
HENRY F. TESCHMAKER et als.

Testimony taken in behalf of claimants, before John A. Munroe, U. S. com'r for the northern district of California, this 19th day of October, A. D. 1854.

Present, the claimants by their attorneys, and the U. S. dist. att'y by Andrew Glassell.

Bedney F. McDonald, being first duly sworn, deposes and says:

Question 1st. What is your name, age, and place of residence?

Answer. Bedney F. McDonald; forty-six years of age; I reside in Santa Cruz Co., California.

Question 2d. What is your business, and what office, if any, do you now hold?

Answer. I am a civil engineer by profession; I am a deputy U. S. *States* surveyer for California.

Question 3d. .Do you know the tract of land called "La Laguna de Lup-Yomi?" if yea, state whether or not you ever surveyed it, and where it is situated?

Answer. I know the so-called tract of land, "La Laguna de Lup-Yomi," as it was pointed out to me by Salvador Vallejo and Ramon Carillo; I surveyed it, and commenced the survey, I think, on the 2d day of June, 1854, and completed it, I think, on the 30th day of the same month and year; it is situated on Clear lake, north of Napa city about sixty miles.

Question 4th. In making this survey, who pointed out to you the boundaries of the said rancho, "Lup-Yomi?"

Answer. Salvador Vallejo and Ramon Carillo pointed them out to me, and I surveyed the land according to the information derived from them; Salvador Vallejo was with me about a day and a half, and Ramon Carillo about a day.

Question 5th. Was any map made of this land according to your survey?

Answer. There was; I had one made from the field-notes of my survey; the map was made by Eugene Hessey, and compared with the field-notes by myself, and is correct.

Question 6th. Where is this map?

Answer. Here it is; I have it here with me. (Witness here produces a map, marked J. A. M., No. 1, and is hereby annexed to this deposition.)

Question 7th. Look upon the map which has just been produced by you, and marked as above, (J. A. M., No. 1) and state whether or not it is an accurate and correct map of the land pointed out to you by the said Salvador Vallejo and Ramon Carillo; if yea, describe the boundaries of the said rancho in reference to it?

Answer. It is an accurate and correct map of the said rancho; it is bounded all around by the mountains; there are only two places by which you can get out of it; I commenced my survey at the point marked "A" on the lake, at the mouth of Kelsey's creek, and ran along the foot of the mountains, as indicated by the yellow line on said map, to the point marked "H" on the creek, called "Cahool Biclomi;" from point "H" I meandered said creek to the lake, and from thence I meandered the lake, as indicated by the yellow line, to the point of beginning.

Question 8th. State what quantity of land is contained within the boundaries just described by you.

Answer. There are fifty-two thousand four hundred and fifty-five $\frac{22}{100}$ acres, being a little more than twelve leagues.

Question 9th. Give a general description of the boundaries, and the situation of this land.

Answer. The boundaries all around are high mountains, except where it is bounded by the said creek and lake; the boundaries are natural boundaries, and cannot well be mistaken.

Cross-examined by the U. S. Dist. Attorney.

Question 1st. What data were furnished you for making this survey?

Answer. The data were the boundaries as pointed out to me by Salvador Vallejo and Ramon Carillo. I had no map, or other data than the information given me by those gentlemen.

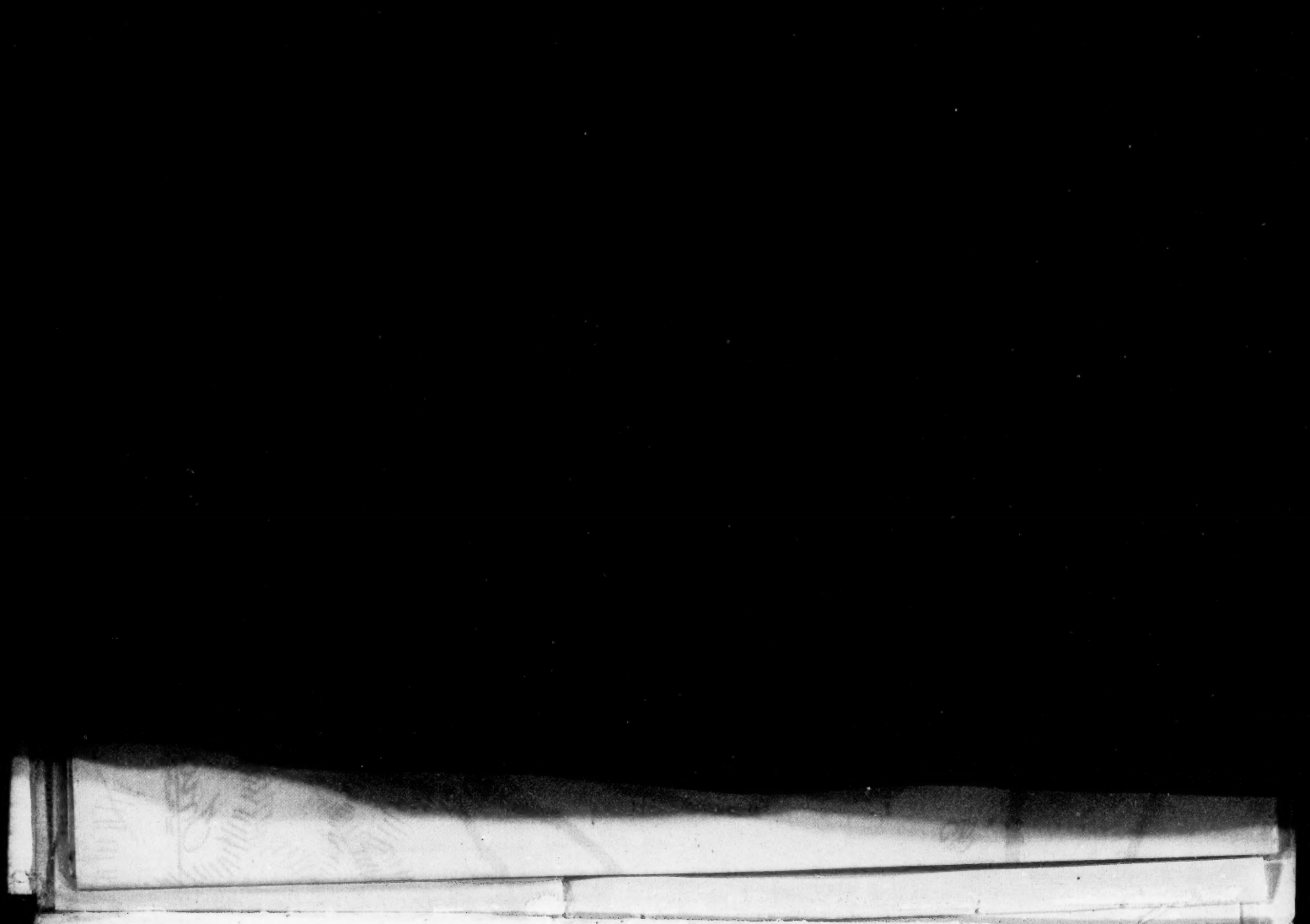
Question 2d. How was that information given you?

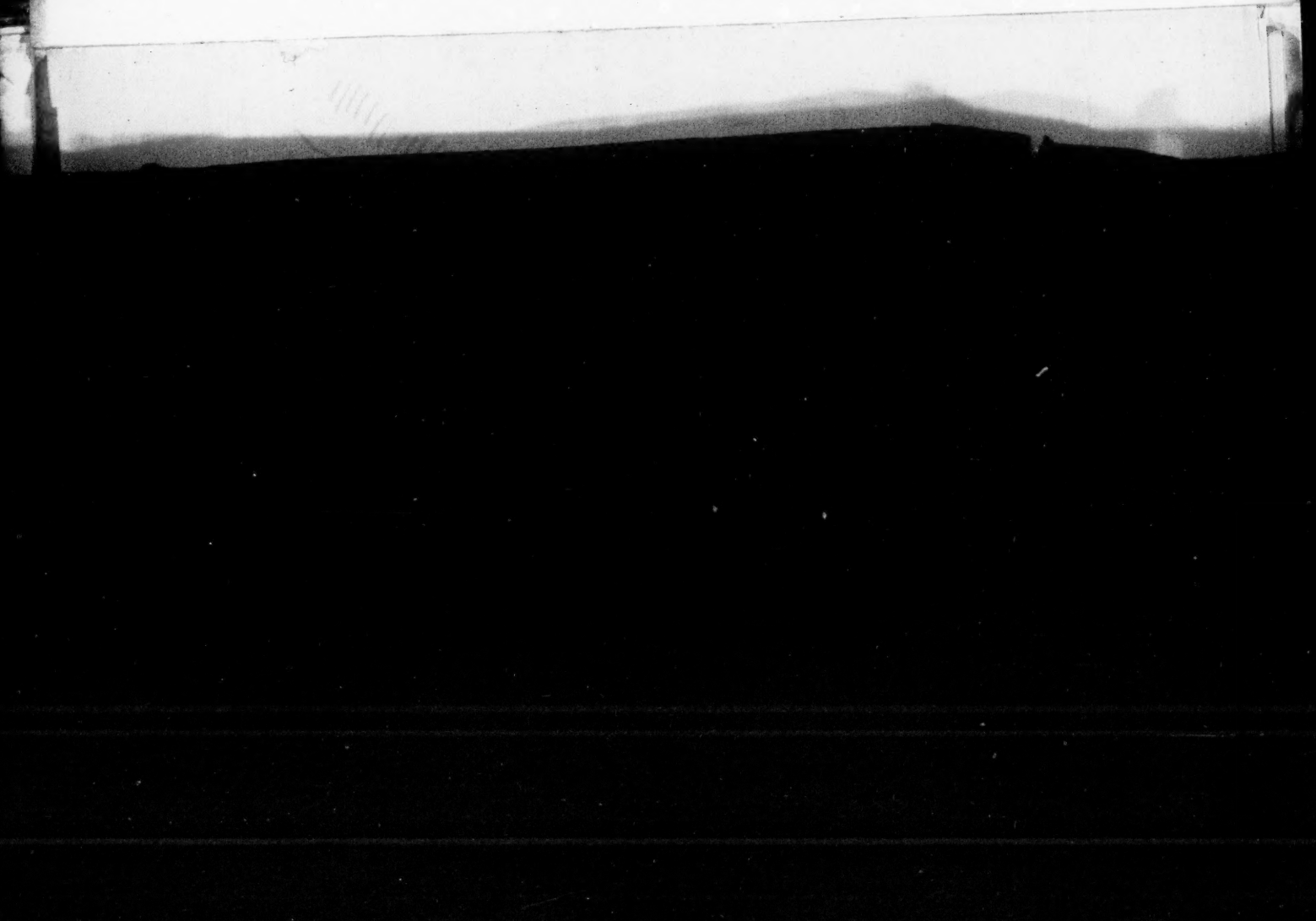
Answer. By their riding around and pointing out to me the corners and boundaries.

BEDNEY F. McDONALD,
U. S. Deputy Surveyor.

[*Here follows map—original, page* 30.]

COURSES.	DISTANCES.	COURSES.	DISTANCES.		COURSES.	DISTANCES.	
From A—B.		From A—B—Continued.			B—C—Continued.		
S. 1 E.	3.00	S. 4 E.	8.00 *i.*		N. 65¾ W.	3.50	
S. 19½ E.	7.00	S. 56 W.	13.50	S. 27¼ W. 18.00	N. 51½ W.	6.00	
S. 38 E.	7.50				S. 87¾ W.	7.00	
S. 4½ E.	3.50	S. 29½ W.	3.00		S. 84 W.	8.21	
S. 28¼ E.	9.00				S. 10½ E.	64.05	
S. 12¼ W.	8.00	S. 73½ E.	4.50 *k.*		N. 58 W.	6.11 *l.*	
S. 39¾ E.	8.65				N. 52½ W.	16.13	
S. 86½ E.	13.50	S. 7½ E.	5.00				
S. 26½ E.	15.00	S. 10½ E.	18.50		S. 50½ W.	6.00	
S. 80½ W.	8.50	N. 45½ E.	7.97				
S. 78 E.	11.00	N. 83½ E.	5.25		S. 56½ W.	47.50	
S. 81½ W.	10.00	S. 40½ E.	11.00				
S. 61½ W.	5.50	S. 51½ E.	4.00		N. 31 W.	12.34	
S. 14½ E.	6.00	S. 44½ E.	4.50				
S. 16 E.	9.00	S. 65½ E.	8.00		N. 75½ W.	19.00	
S. 33½ E.	15.00	S. 17½ W.	11.50				
S. 43½ E.	16.50	S. 24½ W.	7.50		N. 21¼ E.	26.71	
S. 2 E.	4.67	S. 22½ E.	10.00				
S. 50¾ E.	8.50	S. 36 E.	6.50		S. 61¼ W.	1.00	
N. 62 E.	16.50	S. 15 E.	7.50				
S. 79½ E.	14.50	S. 57½ E.	8.32. *B.*		S. 59¾ W.	187.00	S. 55¾ W. 281.00.
S. 42⅔ E.	14.45						
S. 7½ E.	26.50	B—C.					
S. 59 W.	13.00				S. 30¼ W.	5.50	
S. 43½ W.	6.00						
S. 22¼ W.	10.50	S. 15 E.	4.30		S. 40¼ W.	18.25	
S. 43½ W.	13.00	S. 30½ E.	8.50				
S. 54½ W.	10.50	N. 70½ W.	11.73		S. 10½ W.	7.65	





Courses and Distances—Continued.

COURSES.	DISTANCES.		
B—C—Continued.			
S. 19¾ W.	11.19		
S. 23 E.	10.18		
S. 32½ W.	7.56	S. 55¾ W.	281.00.
S. 2 E.	9.50		
S. 70 E.	10.00		
S. 42½ E.	5.45	*m.*	
S. 43¼ E.	23.00		
S. 45½ W.	10.18		
N. 73¼ W.	1.30		
S. 84½ W.	8.50		
S. 69¾ W.	7.06		
S. 45¼ W.	44.00		
N. 87 W.	5.61		
W. 72½ W.	25.00		
N. 51½ W.	6.00		
N. 44¾ W.	12.50		
N. 47 W.	7.65		
N. 30¼ E.	9.20		
N. 32¾ W.	13.21		
N. 20½ E.	5.00	*n*	
N. 51½ E.	7.19		
N. 1½ E.	8.00		
N. 50¼ E.	4.86	N. 25¼ W.	33.50.
N. 25¼ W.	11.00		
West	21.50	*O*	
N. 24¾ W.	5.00	*G*	
C—D.			
N. ¾ E.	9.00		
N. 10½ W.	9.00		
N. 60 W.	9.00		
N. 55¼ W.	14.50		
N. 16½ W.	13.50		
N. 2¼ E.	11.50		
N. 31 W.	14.50		
N. 7¾ E.	11.02		
N. 15½ E.	8.50		
N. 19 W.	9.00		
N. 28½ W.	80.00		

COURSES.	DISTANCES.	
C—D—Continued.		
N. 41½ W.	5.00	
N. 30 W.	7.40	
N. 64 W.	11.00	
N. 40½ W.	21.00	
N. 34¼ W.	17.50	
N. 70 W.	21.25	
N. 83 E.	3.00	
N. 29¼ E.	20.00	
N. 47½ W.	22.00	
N. 24 W.	23.50	
N. 76½ W.	8.50	
S. 81¼ W.	6.61	
N. 72 W.	8.85	
S. 69½ W.	5.00	
N. 25½ W.	20.50	
N. 65 W.	12.00	
N. 47 W.	10.00	
N. 6 W.	12.00	
N. 3 W.	77.00	
N. 24½ W.	9.00	
N. 40 W.	11.50	
N. 82 W.	4.49	
S. 84 W.	19.00	
N. 33½ W.	12.50	
N. 21 E.	5.00	
N. 11½ E.	5.50	
N. 24 W.	11.50	
N. 42 W.	3.50	
N. 52½ W.	8.50	
N. 47 W.	13.00	
S. 86 W.	6.50	
W. 85¾ W.	4.77	
N. 15 E.	8.20	
N. 56½ W.	13.41	
N. 78½ W.	6.50	*D.*
D to E.		
N. 88¾ W.	9.30	
S. 7¼ E.	6.50	
N. 76½ W.	4.26	
N. 82¼ W.	3.50	
N. 84¾ W.	11.62	
N. 58 W.	12.00	
N. 72¾ W.	3.00	
N. 57 W.	8.50	
S. 67 W.	3.00	
S. 51¾ W.	8.00	
N. 68 W.	6.00	
N. 59 W.	4.00	
N. 47½ W.	3.20	
S. 73½ W.	2.00	

COURSES.	DISTANCES.	
D—E—Continued.		
N. 87½ W.	2.00	
N. 52½ W.	2.50	
N. 4¾ W.	1.50	
N. 17½ E.	2.00	
S. 73¾ W.	3.36	
N. 56½ W.	14.25	
N. 21 E.	4.50	
N. 29½ E.	6.00	
N. 18½ E.	8.00	
N. 37½ W.	6.50	
N. 62½ E.	4.50	
S. 82 E.	6.90	
N. 48½ E.	2.00	
N. 43½ E.	3.71	
N. 70½ E.	3.71	
N. 14 W.	4.69	
N. 17 E.	17.85	
N. 50½ E.	4.35	
N. 31¾ W.	7.17	
N. 47¼ E.	3.20	
N. 1 W.	4.77	
N. 66½ W.	6.88	
N. 21½ W.	4.50	
N. 11¾ E.	9.50	
North	13.00	
N. 44½ W.	7.00	
N. 50¼ W.	12.50	
N. 18 E.	2.84	
N. 66 W.	7.00	
N. 55½ W.	6.30	
S. 75 W.	11.00	
N. 67½ W.	11.50	*E.*
E—F.		
S. 65¾ W.	11.19	
S. 79½ W.	11.83	
N. 8¾ W.	8.81	
N. 76¾ W.	17.69	
N. 45½ W.	7.50	
N. 79¾ W.	10.00	
N. 1½ W.	4.50	
N. 23¼ W.	6.10	
N. 73¾ W.	7.00	
S. 78 W.	10.21	
N. 50¼ E.	7.50	
N. 40¼ E.	5.00	
N. 58¾ W.	6.50	
S. 76 W.	3.00	
N. 70¾ W.	4.16	
S. 81¼ W.	6.00	
N. 41 W.	5.50	

Courses and Distances—Continued.

COURSES.	DISTANCES.	
E—F—Continued.		
N. 62½ W.	8.00	
N. 15¾ W.	28.00	
N. 14¾ E.	12.23	
N. 67¾ E.	19.00	
N. 59¼ E.	7.50	
N. 81½ E.	6.50	
N. 75 E.	2.75	
S. 65½ E.	3.00	
N. 12 E.	17.84	
N. 34½ W.	10.31	
S. 87½ W.	4.50	
N. 26½ W.	6.50	
N. 59½ E.	8.00	
N. 67½ E.	11.50	
N. 43¾ E.	2.70	
N. 73½ E.	1.50	
N. 1 E.	1.73	
N. 16½ E.	12.50	
N. 38½ E.	5.00	
N. 15 E.	1.00	
N. 56¼ E.	1.00	
N. 31 E.	1.97	
N. 7½ E.	4.00	
N. 8½ E.	8.25	
N. 33 E.	8.60	
N. 1 W.	7.50	
N. 59 W.	9.00	
N. 79¾ W.	4.00	
N. 33½ W.	11.87 *F.*	
F—G.		
N. 8¼ E.	27.00	
N. 51½ E.	17.00	
N. 46½ E.	13.00	
N. 25¾ E.	30.00	
N. 31 E.	4.75	
N. 23½ E.	4.50	
N. 38½ W.	6.00	
N. 72½ W.	4.93	
N. 21½ W.	15.00	
N. 3¼ W.	15.00 *h.*	
S. 82½ E.	10.38	N. 32¼ E. 36.50.
N. 74 E.	14.50	
North	4.50	
W. 2½ W.	7.50	
N. 66½ E.	4.15	
N. 27½ W.	17.50 *g.*	

COURSES.	DISTANCES.	
F—G—Continued.		
N. 1½ E.	14.34	
N. 64 W.	8.50	
N. 40½ W.	17.44	
N. 67½ W.	17.00	
N. 48¼ W.	27.00	
N. 66 W.	11.25	
N. 40½ W.	8.00	
N. 29½ W.	6.50	
N. 49½ W.	19.50	
N. 24 W.	4.50	
N. 57½ W.	14.25	
N. 21½ E.	3.50	
N. 12½ E.	11.00	
N. 25 W.	7.00	
N. 10 E.	8.00	
N. 41¾ W.	7.50	
N. 81 W.	7.10	
N. 61½ W.	15.00	
N. 89½ W.	6.00	
N. 36 W.	3.15	
N. 55½ W.	6.50	
N. 61½ E.	4.50	
N. 81 W.	7.82 *O.*	
S. 51¾ W.	8.45	N. 86¾ W. 17.50.
N. 60 W.	11.50 *f.*	
N. 2 E.	6.00	
N. 66½ W.	10.50	
N. 5½ E.	2.50	
S. 77¼ W.	7.18	
N. 4 W.	6.25 *G.*	
G—H.		
N. 85 W.	3.86	
N. 43 W.	3.00	
N. 56½ W.	5.00	
N. 59 W.	5.50	
N. 3 E.	7.75	
S. 86¼ E.	2.62	
N. 7 W.	13.18	
N. 52¾ W.	6.25	
N. 36¾ W.	5.50	
S. 87 W.	3.00	
S. 88½ W.	4.00	
N. 64½ W.	8.00	
N. 38¾ W.	8.75	
S. 72 W.	10.00	
N. 56¼ W.	13.50	
S. 89 W.	4.05	
N. 13½ W.	4.25	
N. 39¼ W.	13.54	

COURSES.	DISTANCES.	
G—H—Continued.		
	N. 34½ W.	9.33
	N. 66½ W.	21.50 *d.*
N. 50 W.	N. 77 E.	14.50
6.00	N. 6¾ E.	17.00
N. 75 W.	N. 39½ W.	11.50
3.34	N. 24¾ W.	24.29
	N. 50 W.	5.00
N. 45¾ W.	N. 28¼ W.	16.50
3.58	N. 55¾ W.	5.00
	N. 72¾ W.	15.00
N. 85¼ W.	N. 9 W.	7.50
4.87	N. 55½ W.	14.50
	N. 72 W.	7.00
N. 28 W.	N. 42½ W.	10.26
110.50	N. 76½ W.	5.00
	N. 65½ W.	4.00
	N. 33¼ W.	2.50 *c*
	N. 13¾ E.	42.60
	S. 79¾ E.	61.00
	East	5.25
	N. 42½ E.	3.00
	N. 57 E.	17.25
	S. 70½ E.	52.25
	N. 60¾ E.	9.00
	N. 54½ E.	6.00
	N. 13¼ E.	4.59
	N. 17¼ E.	4.13
	N. 59 E.	84.25 *H.*
H—I.		
	S. 32 E.	9.50
	S. 9¾ E.	6.75
	S. 47 E.	3.50
	S. 37 E.	11.25
	N. 77½ E.	3.72
	S. 74½ E.	4.00
	S. 88 E.	4.85

Courses and Distances—Continued.

COURSES.	DISTANCES.	
H—I—Continued.		
N. 84 E.	5.50	
N. 20¼ E.	10.50	
N. 48 E.	3.59	
N. 22 E.	8.00	
N. 55½ E.	7.76	
S. 24½ E.	12.50	
S. 86 E.	6.50	
N. 70½ E.	4.00	
S. 26 E.	3.50	
S. 59¼ E.	4.00	
S. 34½ E.	3.00	
S. ½ W.	12.77	
S. 60½ E.	9.00	
S. 32 E.	9.60	
N. 89½ E.	4.50	
S. 29¼ E.	10.50	
S. 67 E.	8.78	
S. 31¾ E.	10.35	
S. 61 E.	4.50	
S. 5 E.	2.00	
S. 23½ W.	6.92	
S. 27 E.	3.00	
S. 15 E.	3.00	
S. 34 E.	4.83	
S. 18½ E.	4.90	
S. 60 E.	8.06	
S. 13¾ W.	13.00	
S. 4½ W.	5.00	
S. 19¼ E.	9.00	
S. 23¼ W.	5.27	
S. 19¼ E.	9.00	
S. 13 W.	4.93	
S. 22 E.	3.50	
S. 3¼ W.	4.00	
S. 32½ E.	6.57	
S. 10¼ W.	3.00	
S. 42 E.	6.39	
S. 19½ W.	4.50	
S. ½ E.	5.00.	*I.*
I—K.		
S. 33 W.	7.50	
S. 2¾ W.	2.50	
S. 32¼ W.	2.50	
S. 45½ W.	4.00	
S. 65¾ W.	4.48	
S. 10¼ W.	4.00	
S. 13 E.	14.50	
S. 23¾ E.	2.50	
S. 1 W.	5.00	
S. 31½ W.	4.67	

COURSES.	DISTANCES.	
I—K—Continued.		
S. 67¼ W.	2.00	
N. 69½ W.	5.50	
S. 42½ W.	4.88	
S. 9¾ E.	2.75	
S. 42½ W.	4.90	
S. 6¼ E.	7.60	
S. 75¼ W.	3.22	
S. 18¾ W.	2.77	
S. 42 W.	1.50	
S. 47¾ E.	3.23	
S. 4 W.	3.00	
S. 30½ W.	4.00	
S. 26¾ E.	8.30	
S. 26 W.	7.00	
S. 14¾ E.	3.91	
S. 38¾ E.	1.50	
S. 60¼ E.	1.89	
S. 48¾ E.	1.94	
S. 18 W.	2.22	
S. 58 W.	0.89	
S. 42¾ W.	2.44	
S. 18½ E.	2.65	
S. 15 E.	2.25	
S. 34 E.	1.56	
S. 17¾ W.	1.50	
S. 5¼ W.	1.83	
S. 33 W.	3.45	
S. 24 W.	3.00	
S. 12 E.	3.87	
S. 46½ E.	2.75	
S. 70¼ E.	2.47	
N. 35½ E.	3.29	
N. 77½ E.	3.71	
N. 8½ W.	3.50	
N. 9 E.	2.00	
N. 32¾ E.	1.27.	*K.*
K—L.		
N. 81¾ E.	1.00	
S. 78¾ E.	3.00	
S. 40½ E.	2.50	
S. 34 E.	4.00	
S. 56¼ E.	4.00	
S. ¼ E.	2.61	
S. 20½ E.	3.50.	*a.*
S. 40¼ E.	4.75	S. 77¾ E. 10.00
S. 38¾ E.	8.50	
S. 45¾ E.	4.84	

COURSES.	DISTANCES.	
K—L—Continued.		
S. 68¾ E.	2.65	S. 77¾ E. 10.00.
S. 88¼ E.	3.74	
N. 19¼ E.	1.39.	*b.*
N. 9¾ W.	5.31	
N. 67 W.	4.68	
N. 60¾ E.	11.00	
S. 30¼ E.	4.00	
S. 34½ E.	3.50	
S. 68¼ E.	5.00	
S. 72½ E.	8.50	
S. 82½ E.	1.07	
S. 12 W.	12.50	
S. 15¾ W.	21.00	
N. 51½ E.	13.50	
S. 88¼ E.	2.00	
S. 53 E.	1.89	
N. 89¼ E.	3.36	
S. 3½ W.	4.10	
S. 18½ W.	7.80	
S. 29 W.	10.50	
N. 74 E.	9.50	
N. 31¾ E.	6.50	
N. 52¾ E.	8.86	
S. 16¼ E.	4.75	
S. 39 E.	5.00	
S. 58 E.	9.00	
S. 41 E.	7.00	
S. 29¾ E.	6.00	
S. 12¼ E.	9.00	
S. 42¼ E.	9.50	
S. ¾ W.	16.50	
S. 84¼ E.	6.00	
N. 56¾ E.	7.76	
S. 72½ E.	4.50	
N. 23¼ E.	5.50	
N. 71½ E.	4.88.	*L.*
L—M.		
S. 39 E.	0.96	
N. 89 E.	1.65	
S. 50¾ E.	2.50	
S. 4¾ E.	2.16	
S. 57¾ W.	3.25	
S. 22 W.	7.00	
S. 56 E.	3.00	
S. 23¼ W.	8.00	
S. 85½ E.	8.76	
S. 9¾ E.	3.00	

Courses and Distances—Continued.

COURSES.	DISTANCES.	COURSES.	DISTANCES.	COURSES.	DISTANCES.
L—M—Continued.		M—N.		M—N—Continued.	
S. 59½ W.	8.75	S. 58½ W.	8.00	S. 63 E.	21.50
N. 82½ W.	18.50	S. 11½ W.	20.00	N. 51½ E.	30.00
S. 30 E.	28.00	S. 21¼ E.	1.50	S. 82½ E.	3.00
S. 65½ E.	12.00	S. 31½ W.	9.00	S. 88 E.	6.00
N. 6½ W.	18.50	S. 23½ E.	26.00	S. 42 E.	44.00
N. 39 E.	4.00	S. 1½ W.	14.50	N. 80¼ E.	48.50
S. 77½ E.	10.50	S. 12 W.	25.00	S. 89½ E.	3.00
S. 71¼ E.	5.00	S. 23½ E.	31.25	N. 76½ E.	46.50
S. 28½ E.	8.50	S. 13½ W.	12.00	N. 43½ E.	5.55
S. 83¼ E.	10.00	S. 13½ E.	9.50	N. 29½ E.	8.62. *N.*
S. 26¾ E.	15.47	S. 20½ W.	15.35		
S. 34½ W.	6.50	S. 84 W.	15.50	N—A.	
S. 81 W.	6.50	S. 20¾ W.	30.50		
S. 86 W.	14.50	S. 16 W.	9.00	N. 56½ E.	6.59
S. 31 E.	5.50	S. 53½ E.	15.50	N. 40½ E.	2.41
S. 7¼ E.	7.00	S. 7 E.	9.00	N. 69½ E.	3.50
S. 85 E.	7.50	S. 14¾ E.	9.00	S. 75½ E.	3.85
S. 46½ E.	9.00	S. 1½ W.	12.25	S. 53½ E.	4.32
N. 40½ E.	10.00	S. 23 E.	18.00	N. 60½ E.	8.27
N. 6¼ E.	6.50	S. 15 E.	5.00	N. 21 E.	11.50
N. 21½ E.	6.50	S. 22¾ E.	14.25	East	7.00
N. 56¾ E.	3.50	S. 30½ W.	7.50	N. 83½ E.	31.00
N. 37¾ E.	9.00	S. 37½ W.	13.50	N. 72¾ E.	22.50
N. 49¼ E.	8.00	S. 55½ E.	8.50	N. 88 E.	8.32
N. 73½ E.	4.00	S. 67¾ E.	5.00	S. 74½ E.	20.00
S. 65¼ E.	4.50	S. 37¼ E.	16.50	N. 82¾ E.	16.50
S. 43¾ E.	5.00	S. 5¾ E.	26.00	S. 85¼ E.	6.00
S. 23½ E.	4.50	S. 21½ E.	18 50	S. 84¾ E.	15.00
S. 51¼ E.	7.00	S. 6½ W.	6.10	S. 74¾ E.	5.69
N. 74 E.	8.00	S. 24 E.	31.25	N. 57 E.	2.50
S. 21 E.	4.00	S. 17 E.	18.00	N. 80 E.	5.00
S. 23¾ W.	12.50	S. 2¼ E.	13.00	S. 81½ E.	13.00
S. 16½ W.	13.00	S. 40 E.	50.00	N. 67½ E.	7.00
S. 17½ W.	10.00	N. 84 E.	11.25	N. 83½ E.	6.00
S. 26½ W.	9.00	N. 82¾ E.	24.40	N. 77 E.	7.05. *A.*
S. 22 W.	14.50. *M.*	N. 70¾ E.	12.00		

Deposition of Salvador Vallejo.

Salvador Vallejo, being duly sworn, deposes and says:

Question 1st. State your name, age, and residence?

Answer. My name is Salvador Vallejo, my age is forty two, and my residence is in Napa county, California.

Question 2d. Are you acquainted with the rancho called "La Laguna de Lup-Yomi?" if yea, how long have you known it, and where is it situated?

Answer. I am acquainted with said rancho; I have known it since the year 1840. It is situated in Napa county, California.

Question 3d. Are you acquainted with the boundaries of said rancho? if yea, state them.

Answer. I do know them; they commence at the mouth of the creek "Lup-Yomi," now called Kelsey's creek; thence in a southerly direction to some pine trees; thence the Hill of the Springs; thence to the Divisidero; thence to the Green valley; thence to the "Laguna de Pinto;" thence along the edges of the hills to the river which forms the head of the lake; thence down the river to the lake; and from thence along the margin of the lake to the mouth of Kelsey's creek, the place of beginning.

Question 4th. By what name has the land which you have described been called and known, and for what length of time has it been so called and known?

Answer. By the name of "Lup-Yomi;" I have known it since 1840 or 1841; it has been called by that name ever since I have known it.

Question 5th. State the character of its boundaries.

Answer. It has natural boundaries—the mountains on one side, and the lake on the other.

Question 6th. Did you ever point out these boundaries to any individual, with a view to a survey of this rancho? if so, to whom and when?

Answer. I did, to Mr. McDonald, the same gentleman who gave his deposition this morning; I am not positive as to the time, but I think about four months since.

Question 7th. What boundaries did you point out to Mr. McDonald as the boundaries of this rancho?

Answer. The same boundaries which I have described as above, as being the boundaries of this rancho.

Question 8th. Could you trace those boundaries on a map?

Answer. I could. (The map is here shown the witness marked "J. A. M. No. 1," and which is annexed to the deposition of Bedney F. McDonald.)

Question 9th. Look upon the map which is now shown you, and designate the boundaries of said rancho.

Answer. I have looked upon the map; the yellow line marked thereon correctly describes the boundary of this land, and is in accordance with the information which I gave Mr. McDonald as above stated.

Question 10th. State what you know in regard to the occupation and cultivation of this rancho of "Lup-Yomi" by the original grantees of the same.

Answer. My brother Juan Antonio and myself were the original grantees of this land. In the year 1842 or 1843 I placed cattle on said rancho, built a house and corrals; I also placed horses there; after this I made a solicitation of the governor for this land, and in the year 1843 or 1844 I received the title for this land; I lived during this time on the place; I was frequently absent vis-

iting my house and lot in Sonoma and my other farms, and always had a mayor domo on the rancho; during the above time I cultivated beans, corn, pumpkins, watermelons, &c. The last house I built on the place was just about the time this country was invaded by the Americans. During the above periods I had on this rancho from 1,500 to 2,000 head of cattle, from 500 to 600 head of horses and mares, and from 1,500 to 2,000 head of hogs. My brother Juan Antonio and myself were equally interested in the above property; my brother Juan Antonio frequently visited the rancho, but resided in Monterey.

Question 11th. Did you and your brother ever receive judicial possession of this land?

Answer. We never did.

Question 12th. Did you or your brother ever apply for juridical possession of this land? if so, when, and to whom?

Answer. I applied for juridical possession to José de la Rosa, at that time alcalde of Sonoma, in the year 1845. He was the said Rosa, alcalde of the district in which said land is situated.

Question 13th. Why was it that you did not obtain juridical possession of said land when you applied for it?

Answer. The alcalde was afraid to go out to the rancho, on account of the Indians; that was the only reason that I knew of, that prevented him from going there.

Cross-examined by the U. S. Dist. Att'y.

Question 1st. What were the means by which you determined the boundaries you have described, and their application to the said rancho?

Answer. There was a meeting of seven rancheros, to whom I pointed out the boundaries of my farm, that they might know it, and recognise it as my property. Those seven rancheros were my nearest neighbors. I knew those were the boundaries, because the mountains were on one side, and the lake on the other.

Question 2d. Were those your only means of knowing and ascertaining those boundaries to be correct? and if not, state what other means you had.

Answer. Those were not the only means I had of knowing those boundaries; my other means were, that they were pointed out to me by the chief of the Indian tribes, named Minae, who was my compadre. "Lup-Yomi" signifies, in the Indian language, "town of stones;" and this place was so named by the Indians.

Question 3d. Did your brother Juan Antonio ever build a house on said rancho; did he own any of the stock? and if yea, what portion?

Answer. He never built a house; he owned one half of the stock.

Question 4th. How has your brother ever disposed of his portion of the stock?

Answer. He has never disposed of his portion of the stock; most

of the whole of said stock was stolen and driven off by Indians and emigrants. I pitched in and saved about fifty cows—the balance of the stock was lost.

Question 5th. Did you ever divide with your brother the stock that was saved?

Answer. I never did; I have no interest whatever in this claim of "Lup-Yomi."

Direct resumed.

Question 1st. Upon whose account or at whose expense were the said houses built upon said rancho?

Answer. On account of both my brother and myself.

Question 2d. What was the state of the country on the rancho; and was it safe for families to live there during the time that you occupied this rancho?

Answer. There were constant revolutions among the Indians at the time, and it was unsafe for families to live there.

Cross-examination resumed.

Question 1st. Would it not have been safer for two brothers to live there, than for one to live alone?

Answer. No, sir; I consider myself man enough to live anywhere.

Question 2d. How much and what kind of expense were you or your brother at, in building said houses?

Answer. A great deal of meat and spunk.

SALVADOR VALLEJO.

The evidence of the last named witness was given in the Spanish language, and interpreted into English by Francis Mellus, esq., who was duly sworn as such interpreter.

Deposition of Jose Ramon Carrillo.

José Ramon Carillo, being duly sworn, deposes and says:

Question 1st. State your name, age, and residence.

Answer. My name is José Ramon Carillo; my age thirty years; I reside in Santa Ana, county of Los Angeles.

Question 2d. Are you acquainted with the rancho called "La Laguna de Lup-Yomi;" if yea, how long have you known it, and where is it situated?

Answer. I do know the rancho; have known it since the year 1840; it is situated in the county of "Napa," State of California.

Question 3d. Are you acquainted with the boundaries of said rancho? If yes, state them.

Answer. I do know the boundaries of said rancho; commence at the mouth of "Lup-Yomi" creek, now known as Kelsey's creek, where it enters the lake, at which place there is a large mountain of black rock; from thence in a southerly direction to some pine trees; from thence in a northerly direction to the "Hill of Springs;"

from thence to the "Divisadero;" from thence to the Green Valley; from thence to the Lake of the Pints;" from thence to the river which empties into the lake; from thence back again along the edge of the lake to the mouth of the creek of Lup-Yomi.

Question 4th. By what name has the land which you have described been called and known; and for what length of time, within your knowledge, has it been so known and called?

Answer. It has been known by the name of "Lup-Yomi," and so known since I first knew it in 1840.

Question 5th. Of what language are the words "Lup-Yomi," and what is their meaning?

Answer. Of the Indian language; "Lup" means stone, and "Yomi" town.

Question. State the general character of the boundaries of this rancho.

Answer. The boundaries are natural, consisting of the lake, and the mountains, and the river; at the base of the mountains the line runs.

Question 7th. How do you know that the tract of land contained in these boundaries is called Lup-Yomi?

Answer. I know it from Menae, the chief of the tribe, who in conversation told me his town was called "Lup-Yomi," as also his land, pointing out the land as described by me; passing over the mountains on the northwestern side, there is another valley, with another tribe, but the name of the land I do not remember, nor do I know of any other land called Lup-Yomi; the adjoining lands have different Indian names, such as Masutaquea, Minanquea, Yojaia, &c.

Question 8th. Did you ever point out the boundaries of this rancho "Lup-Yomi" with a view to it survey; if so, when and to whom?

Answer. I did point out the boundaries to Mr. McDonald, the same man who has testified in this case, about four months since.

Question 9th. What boundaries did you point out to him?

Answer. The same boundaries which I have above described.

Question 10th. Could you trace these boundaries on a map of said land?

Answer. I could.

Question 11th. Look upon the map now shown you, marked J. A. M. No. 1, and heretofore annexed to the deposition of Bedney F. McDonald, taken in this case, and designate the boundaries of this land.

Answer. I have looked, and find the boundaries correctly designated by the yellow lines.

Question 12th. State what you know with regard to the occupation and cultivation of this rancho of "Lup-Yomi" by the original grantees of the same.

Answer. I saw the rancho of "Lup-Yomi" occupied with cattle,

horses, plantings, house, &c., either in the year 1842 or 1843, by Salvador Vallejo and Juan Antonio Vallejo. Salvador Vallejo built several houses, the last of which was built either in the year 1844 or 1845; it was an adobe house of two rooms, the one large and the other small; there were plantings of corn, beans, pumpkins, and watermelons; the house was built by the servants of Salvador and Juan Antonio Vallejo.

Question 13th. Who resided on the rancho during the years 1844, 1845, and 1846?

Answer. Salvador Vallejo, Juan Antonio Vallejo, their mayor domo and servants; there were generally four or five white men on the farm, and sometimes as many as eight or ten; there were also, during this period, plantings carried on as above stated.

Cross-examination by United States Attorney.

Question 1st. Was Juan Antonio Vallejo present when those houses were built as you have described; and if yea, what part, if any, did he take in the work?

Answer. As I was residing on the place, I saw Juan Antonio Vallejo at different times during the building of the houses, as also after their erection, when he would be occupied giving directions about the different works going on on the farm.

Question 2d. What was your business there at the time those houses were building?

Answer. At times I was on campaigns against the Indians; at times I was helping them brand their cattle and horses.

Question 3d. Have you any interest in this claim in any event whatever?

Answer. I have none of any kind.

his
JOSÉ RAMON ⋈ CARRILLO.
mark.

Witness: JNO. A. MONROE,
U. S. Commiss.

The evidence of the above named witness was given in the Spanish language, and interpreted into English by Francis Mellus, esq., who was duly sworn as such interpreter.

Deposition of Jose de la Rosa.

José de la Rosa being duly sworn, says:

Question 1st. State your name, your age, and place of residence.

Answer. My name is José de la Rosa; aged sixty-three years; and reside in Sonoma.

Question 2d. Do you know who was alcalde of Sonoma in 1845? If so, state who.

Answer. I was alcalde of Sonoma from the 22d of June, 1845, to the 9th of February, 1846; first alcalde.

Question 3d. Were you ever applied to in your official capacity

to give judicial possession to the rancho known as the rancho Lup-Yomi; if so, by whom, and when?

Answer. I was, by Salvador Vallejo, on the 25th of June, three days after being alcalde.

Question. Did you give judicial possession of said rancho? If nay, state the reason why.

Answer. I did not; for the reason, on account of a large revolution there was among the Indians of all the frontiers—the Lup-Yomis, Casla Miomis, and other Indians tribes, whose names I do not remember.

Question. Do you know of any other reason, save those stated, why possession was not given?

Answer. No; that was the only reason.

Cross-examination.

Question. How long did that revolution continue?

Answer. Until the middle of August.

Question. Did those Indians kill any white persons at that time about that place?

Answer. No; we asked assistance of the comandante, and we went out and calmed them down.

Question. Would you have been afraid to make the survey, with the usual number of persons who would have accompanied you?

Answer. I would not have been afraid if there were a sufficient number of men; but there were not.

Question. Have you any interest in this question?

Answer. I have not.

JOSÉ DE LA ROSA.

The evidence of the above named witness was given in the Spanish language, and interpreted into English by Francis Mellus, esq., who was duly sworn as such interpreter.

Sworn to before me, this 20th day of Oct., A. D. 1854.

JNO. A. MUNROE,
U. S. Com'r.

UNITED STATES OF AMERICA,
Northern District of California, ss.

I, John A. Munroe, a commissioner duly appointed by the district court of the United States for the northern district of California, under and by virtue of the act of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,' passed March 1st, 1817," and the act entitled "An act to establish the judicial courts of the United States,"

passed September 24th, 1789," do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, the witnesses are material and necessary in the cause, in the caption of the said deposition named, and that the said depositions were taken in pursuance of an order of said district court, made on the 23d day of September, A. D. 1854.

I further certify, that on the 19th and 20th days of October, in the year of our Lord one thousand eight hundred and fifty-four, I was attended by the attorneys for the claimants and the U. S. dist. attorney, who appeared by Andrew Glassell, and by the witnesses, who were of sound mind and lawful age, and the witnesses being by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the depositions being by me reduced to writing, in the presence of the witnesses, and from their statements, and after carefully reading the same to the witnesses they subscribed the same in my presence. I have retained the said depositions in my possession for the purpose of delivering the same with my own hand to the court for which the same were taken.

And I do further certify, that I am not of counsel nor attorney for either of the parties in the said depositions and caption named, nor in any way interested in the event of the cause named in the said caption.

In testimony whereof I have hereunto set my hand and seal this 21st day of October, in the year of our Lord one thousand eight hundred and fifty-four, and of the independence of the United States the seventy-ninth.

JNO. A. MONROE,
United States Commissioner, duly appointed by the district court of the United States for the northern district of California.

Endorsed: Filed the 20th day of Oct., 1854.
JNO. A. MONROE, *Clerk.*

Answer.

In the District Court of the United States for the northern district of California.

THE UNITED STATES, Appellees, ads.
HENRY F. TESCHMAKER, JOSEPH P. THOMPSON, et al., Appellants.

The United States by their attorney deny the validity of the title set out in the petition of the said appellants, and pray that the de-

cision of the board of commissioners be affirmed, and that the said title be decreed to be invalid.

A. GLASSELL,
Asst. U. S. Dist. Att'y, &c.

Endorsed: Filed June 14, 1855.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Part of Transcript of the Proceedings in Case No. 507.—*Omitted in original Transcript.*

H. F. TESCHEMACKER et al., Claimants, vs. THE UNITED STATES, Defendant. } For the place named "Lup-Yomi."

D.—*Deed from Salvador Vallejo to H. F. Teschemacker et al.*

Doc. H H No. 3, annexed to the Deposition of Juan Castañeda, taken before Commissioner Hiland Hall, Jan'y 10th, 1853.

This indenture, made this twenty-fifth day of August, one thousand eight hundred and fifty-two, between Salvador Vallejo and Ma. Luz Carillo, his wife, of Napa, of the first part, and Henry F. Teschemacker, Joseph P. Thompson, George H. Howard, and Julius K. Rose, of San Francisco, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of fourteen thousand dollars to them paid by the said parties of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, and conveyed, and by these presents do grant, bargain, sell, and convey unto the said parties of the second part, and to their heirs and assigns, all that certain tract, piece, or parcel of land situate, lying, and being in the county of Napa and upon the shores of Clear lake, commonly known and called the rancho de "Lup-Yomi," being the same rancho or tract of land granted to the said Salvador Vallejo and Juan A. Vallejo by Manuel Micheltorena, by grant bearing date the fifth day of September, in the year one thousand eight hundred and forty-four, and being the same premises the one-half part whereof was conveyed by the said Juan A. Vallejo to the said Salvador Vallejo, by deed bearing date the thirtieth day of December, one thousand eight hundred and forty-nine, excepting and reserving one tract of three miles square, lying within the original boundaries of the said rancho, which has been heretofore sold to one Spratt; and another tract of three miles square, also lying within the boundaries aforesaid, which has been heretofore sold to one Yunge; this deed being intended to convey the whole of the said rancho, except the said two tracts, each three miles square, together with the tenements, hereditaments, and ap-

purtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof. And also all the estate, right, title, interest, dower, and right of dower, property, possession, claim, and demand whatsoever of the said parties of the first part, of, in, and to the same, and every part and parcel thereof; to have and to hold the hereinbefore granted and described premises, with the appurtenances, unto the said parties of the second part, their heirs and assigns, to their sole use, benefit, and behoof forever. And the said Salvador Vallejo, for himself, his heirs, executors and administrators, hereby covenants to and with the said parties of the second part, their heirs and assigns, that the said premises are free and clear of and from all and all manner of former and other bargains, sales, gifts, grants, rights, titles, charges, liens, and incumbrances whatever, had, made, committed, done, or suffered in anywise whatsoever by the said parties of the first part, or either of them, or any other person by them or either of them thereunto lawfully authorized and empowered, except as aforesaid.

In witness whereof, the parties of the first part have hereunto set their hands and seals the day and year first above written.

(Signed) SALVADOR VALLEJO, [SEAL.]

(Signed) MA. LUZ CARILLO her mark DE VALLEJO. [SEAL.]

Sealed and delivered in presence of
(Signed) W. W. CULVER,
" J. DE CASTANEDA.

STATE OF CALIFORNIA,
County of Napa, ss.

On this twenty-fifth day of August, A. D. 1852, before me, a notary public in and for the said county, personally appeared Salvador Vallejo and Ma. Luz Carillo, his wife, to me known to be the persons described in and who executed the above deed, and acknowledged that they executed the same freely and voluntarily for the uses and purposes therein mentioned. And the said Ma. Luz Carillo, first having been by me made acquainted with the contents of the said instrument, acknowledged, on an examination apart from and without the hearing of her said husband, that she executed the same freely and voluntarily, without any fear or compulsion or under influence of her said husband, and that she did not wish to retract the execution of the same.

Witness my hand and official seal.

(Signed) WILLIAM W. CULVER, [SEAL.]
Notary Public.

Filed for record August 25th, A. D. 1852, at 9½ o'clock a. m.,

and recorded in book B, pages 197, 198 and 199 of the archives of Napa county.

(Signed) JOHN H. SEAWELL, *Rec'dr.*
" By D. M. GRAHAM, *Dy. R.*

Fees for recording paid.

Filed for record August 28th, 1852, at 9 o'clock a. m., and recorded on folios 55, 57 of liber A, of deeds records of Yolo county.

(Signed) H. GRIFFITH, *Recorder.*

8 folios paid.

STATE OF CALIFORNIA, *county of Colusi.*

RECORDER'S OFFICE.

Received for record Aug. 30th, A. D. 1852, at 9½ o'clock a. m., and this original deed is fully, truly, and faithfully recorded on our register of deeds, book A, pages 266, 267 and 268, and is hereby so certified.

(Signed) E. D. WHEATLEY,
Recorder.
" W. M. BLDE,
Special Dep. Rec'r.

Fees, 9 fol. $4 60, paid.

Filed for record September 1st, 1852, at 11 o'clock a. m., and recorded in book E, pages 592 and 593 of the records of Solano county.

(Signed) GARRHEL BYNUM,
County Recorder.

Fee, $4 60.

Recorded in record of evidence, vol. 8, p. 182.

(Signed) GEO. FISHER, *Sec'y.*

Filed in office June 5th, 1853.

(Signed) GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing four pages, numbered from one to four inclusive, to contain a full, true, and correct copy of an "original deed," forming part of transcript of the record of the proceedings in case No. 507 on the docket of said board, wherein H. F. Techchemacker et al. are claimants, for the place named "Lup-Yomi," against the United States, whereof a transcript of said case No. 507 was filed in the United States district court for the

northern judicial district of California, September thirteenth, eighteen hundred and fifty-four.

In testimony whereof I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] California, this twenty-fifth day of June, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed June 25, 1855.

JNO. A. MUNROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Letter from Secretary of Land Com.

OFFICE OF THE U. S. LAND COMMISSION,
San Francisco, June 25, 1855.

JOHN A. MUNROE, ESQ.,
Cl'k U. S. Dist. Court, northern dist. of California.

SIR: Accompanied herewith, please receive part of transcript of the proceedings in case No. 507, H. F. Teschemacker et al., claimants, vs. The United States, defendant, for the place named "Lup-Yomi," omitted in the original transcript by an oversight.

Please file the same with the original.

Respectfully, GEO. FISHER, *Sec'y.*

Endorsed: Filed June 25th, 1855.

JNO. A. MUNROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Opinion of the Court by Judge Hoffman.

TESCHEMAKER } vs. THE U. S.

At the commencement of the session of this court, for the hearing of appeals from the board of land commissioners, it was stated by the district attorney that a question of great importance would arise, the determination of which would materially affect, if not control, the decision of a large majority of the land cases now pending in this court. The district attorney having stated his point, the court intimated by its willingness to hear the subject fully discussed by any members of the bar, whose cases might be affected by the determination of the question.

Pursuant to this invitation, the court has been favored with elaborate and learned discussions, which have occupied its attention during several days, and in the course of which, not only the points raised by the district attorney, but other questions arising out of the system of granting land formerly prevailing in this country, have been fully examined. As to many of these, it would be inex-

pedient for the court now to express its opinion; its more immediate duty is confined to the determination of the points raised by the district attorney. When the opinion of the Supreme Court in the case of Fremont vs. The U. S. was first promulgated in this State, it was generally supposed that, by it, principles were determined, and rules of decision established, applicable to all the ordinary colonization grants in California. It is urged by the district attorney that the grant to Alvarado was not an ordinary colonization grant, or, at least, that his title, or that of his assignee, was upheld by the court not on considerations applicable to colonization grants generally, but on the ground that the land was originally granted to him for meritorious services; that the principles laid down by the court must be considered as applicable to such cases alone; and that those principles ares till open for discussion in all cases which, in this particular, can be distinguished from that of Fremont. It becomes, then, the duty of this court not to seek to evade the authority of the Supreme Court by limiting the operation of its decision by subtle and unsubstantial distinctions between the case decided and other cases, to which the same reasoning may apply, but to inquire whether the decision in question was in any respect founded upon the distinction suggested, and whether the principles laid down are not, by the reasoning by which they are supported, and the facts to which they are applied, necessarily applicable to all similar cases, without regard to the peculiarities by which the case of Fremont is said to be distinguished. But one passage in the opinion of the court in the case of Fremont has been cited as indicating that the principles determined by the court were to be limited in their application to cases where the grantee had rendered meritorious services. "The grant was not made merely to carry out the colonization policy of the government, but in consideration of the previous public and patriotic services of the grantee."

"This inducement is carefully put forth in the title-papers, and although this cannot be regarded as a money consideration, making the transaction a purchase from the government, yet it is the acknowledgment of a just and equitable claim. And when the grant was made on that consideration, the title in a court of equity ought to be as firm and valid as if it had been purchased with money on the same conditions."

In determining whether the considerations suggested in the foregoing extract were the true grounds of the decision of the court, it will be necessary to consider what were the questions presented for determination in that case, and what were the facts of the case before the court.

The objections to the confirmation of the claim of Fremont, which chiefly received the attention of the court, were two:

1. That there was no segregation of the granted land from the

public domain, no survey having been had, or juridical possession having been given, and that the description on the grant was so vague and uncertain that nothing passed by it.

2. That the conditions of the grant had not been complied with.

With respect to the 1st objection, it is apparent that the motives of the grantor, or the consideration on which the grant was founded, in no respect affect it. It recognises or does not deny the right of the claimant to 10 leagues of land somewhere; but it is based on the ground, that the courts have no power to grant lands or decree an equivalent for lands that cannot be identified, and that until its identity can be established so as to enable the court to ascertain with reasonable certainty where the land lies, the land remains unsevered from the public domain, and the grant cannot be confirmed.

It is evident that this objection would apply with equal force to all grants with similar descriptions, and would be equally tenable, whatever the authority by which the grant was executed, or the considerations on which it was founded.

The circumstance, then, that Alvarado was deemed worthy to be preferred for his patriotic service cannot be deemed to have influenced the court in determining the question whether anything passed by the grant.

And the decision of the Supreme Court must be received as settling the law not only in the case of Fremont, but in all cases of grants in California with similar descriptions.

With regard to the 2d objection, viz., that the conditions of the grant had not been complied with, the distinction taken by the district attorney possesses greater plausibility; for if the inquiry be, what excuses for their non-performance of the conditions shall be received, it might be contended that in case of a grant founded in part on the consideration of previous services, the court would be less rigorous in exacting a full performance, than in cases where the performance of the conditions formed the sole consideration of the grant, and that the rules laid down in one class of cases could not be applied to the other.

But the reasoning of the court in the case of Fremont, in no respect proceeds from this distinction.

The court, in the previous part of its opinion, decides that the grant to Alvarado vested in him a present and immediate interest, and that the conditions attached to it were conditions subsequent. It then proceeds to inquire, "whether anything done or omitted to be done by him during the existence of the Mexican government in California forfeited the interest he had acquired and vested it in the government." (Opinion, p. 5 & p. 7.)

In determining this question the court observes, "that the omission to perform the conditions did not forfeit the grantee's right. It subjects the land to be denounced by another, but the conditions do not declare the land to be forfeited to the State upon the failure of the grantee to perform them.

"The chief object of these grants was to colonize and settle the vacant lands. The grants were usually made for that purpose, without any claim of the grantee on the bounty or justice of the government. But the public had no interest in forfeiting them, even in these cases, unless some other person was ready to occupy them, and thus carry out the policy of extending its settlements. As between the grantee and the government there is nothing in the language of the conditions, taking them altogether, which would justify the court in declaring the land forfeited to the government, where no other person sought to appropriate them; and their performance had not been unreasonably delayed, nor do we find anything in the practice or usages of the Mexican tribunals, so far as we can ascertain them, that would lead to a contrary conclusion."

The court then proceeds to inquire whether there had been any such unreasonable delay or want of effort on the part of Alvarado to fulfil the conditions, as would authorize the presumption that he had abandoned his claim before the Mexican power ceased, and that he was now endeavoring to resume it from its enhanced value.

It is apparent, from the foregoing extracts, that the learned Ch. Justice is considering the effect of a non-fulfilment of the conditions, not merely in cases of grants made in consideration of previous services, but also in those made "without any claim of the grantee on the bounty or justice of the government."

The conclusion arrived at is founded "on the language of the conditions, and their evident object and policy," and is declared to be in accordance with the practice and usages of the Mexican tribunals. "That the court is not justified in declaring the land forfeited where no other person has sought to appropriate them, and the performance of the conditions has not been unreasonably delayed," must be deemed to be a decision applicable to all cases of grants in California, and the idea that it relates exclusively to grants founded in part on the meritorious services of the grantee must be rejected as inadmissible.

But even if the language and reasoning of the court were less clear, the facts in the case of Fremont show that the grant to Alvarado can in no respect be distinguished from the ordinary colonization grants made in California.

By reference to the petition of Alvarado to the political chief, it will be seen that he solicits the land "according to the colonization laws." The governor, in conformity with those laws, directs the secretary to report, and all the intermediate steps are taken precisely in the manner required by the law of 1824, and the regulations of 1828. By those laws the governor was authorized to concede lands to those who petitioned for them, with the object of cultivating them or living on them. (Reg'ns of 1828, § 1.) Nor does he seem to have been empowered to grant on any other conditions or considerations; for the regulations of 1828, under which he acted,

give to the political chief no authority to make grants in reward for military services.

The grant when issued is made subject to the approval of the departmental assembly, as required by the 5 § of the Regulations, and it contains all the conditions, and only those, required by the policy of the colonization laws and invariably inserted in the colonization grants. That both the governor and the grantee intended this grant to be made under the colonization is too clear for argument, and it is abundantly evident, from the opinion of the Chief Justice, that the grant was considered by the Supreme Court as made under those laws, and by their requirements its validity was tested.

With regard to the reference made in the grant to the meritorious services of the petitioner, it is to be observed that under the colonization laws of '24, and the regulations of 1828, they could not have joined the consideration of the grant. By the 9 § of the law of 1824, it was enacted that in the distribution of lands preference shall be given to Mexican citizens, but "between them there shall be no distinction except that to which their particular merits or services entitled them." The meritorious services of the applicant are therefore under the law regarded, not as the consideration of the grant, but merely as a reason why his application should be preferred to that of others. But in his case, as in that of an ordinary colonist, the motive and consideration of the grant, as well as the object and policy of the law, was the cultivation and inhabitation of the land.

In strict conformity with this provision of the law, the governor in his grant recites that Alvarado, "for his patriotic services, is worthy to be preferred in his pretension to the land, &c.," and then proceeds to make the grant on the usual conditions; but he does not pretend to grant the land as recompense for meritorious services, nor from any other motive than to carry out the policy and effect the object of the colonization laws under which he was acting; and for this purpose he adds to his grant the usual conditions, the fulfilment of which is the only consideration for the grant contemplated by the law.

If any further argument were necessary to show that in deciding the case of Fremont the Supreme Court had laid down, and intended so to do, principles applicable to colonization grants in California generally, and not merely to the particular case under consideration, it would be found in the first sentence of the opinion of the court.

The case, says the court, "is not only important to the claimant and the public, but it is understood that many claims in California depend upon the same principles, and will in effect be decided by the judgment of the court in this case."

In the face of such a declaration, it can, we think, hardly be contended that the case was determined upon peculiar and exceptional grounds.

The case at bar remains to be more particularly considered.

No oral argument upon the merits of the case was had at the hearing, but it was stated by the district attorney that the only objections to the validity of the claim, on which he relied, were those contained in the opinion of the board of commissioners rejecting the claim.

By reference to that opinion, it appears that the grounds on which the board rejected the claim were two:

1. That the conditions had not been performed.

2. That the locality and boundaries are not given with sufficient definitiveness to identify the premises.

Without stopping to consider how far the force of the 1st objection is affected by the principles decided in the case of Fremont, it is sufficient to say, that it is not sustained by the proofs. Since the decision of the board was rendered, and during the pendency of the case in this court, additional testimony has been taken, which establishes beyond question the fact that the conditions of cultivating and inhabiting their rancho have been fully complied with by the grantees.

The grant was issued on the 5th Sept., 1844. The land, however, had previously been occupied by the grantees under a permission of occupancy issued by the director general of colonization, and dated March 15, 1839. It appears that the rancho was occupied as early as 1842 or 1843 by Juan Antonio Vallejo and Salvador Vallejo, the grantees, who put upon it large numbers of horses and cattle and hogs; that they built several houses, of which the last, built either in 1844 or 1845, was an adobe, consisting of two rooms, one large and the other small; and that corn, beans, and watermellons were cultivated on the rancho. Had this evidence been submitted to the board, I cannot doubt but that they would have regarded the facts of cultivation and habitation as satisfactorily established. The 2d objection urged by the board is, that the boundaries and locality of the granted land are not given with sufficient definitiveness.

The recital in the grant states that the petitioner has solicited the land known by the name of "La Laguna de Lup-Yomi." The grant is made with the specification, "that the land of which donation is made is sixteen leagues, more or less," "as shown by the respective map." To designate the land the claimants offered in evidence before the board a map purporting to contain a delineation of the place designated in the grant. This map was proved by the testimony of Salvador Vallejo to be a faithful representation of the land, but he was unable to state whether or not it was the same that was presented to the governor. He believed, on the contrary,

that the map produced was one made by himself, while that presented to the governor was made from it by Jasper O'Farrell. The witness, however, did not state that O'Farrell's map was a copy of the one produced, nor that he saw O'Farrell make his map, nor that he has compared the two.

Under this evidence it was decided by the board, that it did not appear that the map offered in evidence was either the identical map presented to the governor or a copy of it; and that the description in the grant was not sufficient in the absence of either a map or a juridical measurement, and delivery of possession, to describe and locate the land granted, or to segregate it from the national domain. To remedy this defect in the proofs additional testimony has been taken in this court. By the testimony of Bedney F. McDonald it appears that the rancho pointed out to him as that of "Lup-Yomi" can be readily distinguished by great natural boundaries, and "that there are only two places by which you can get out of it;" and "that the boundaries all around are high mountains, except where it is bounded by the creek and the lake. The boundaries are natural boundaries, and cannot well be mistaken."

The witness further states that he made a map of the tract, according to the boundaries as pointed out to him by Salvador Vallejo and Ramon Carillo.

Salvador Vallejo, in an additional deposition taken in this court, states, after describing the land, that he has known the tract since 1840 or 1841, and that it has been called by the name of "Lup-Yomi" ever since he has known it; that it has natural boundaries—the mountains on one side and the lake on the other—and that the boundaries of the tract are the same as those pointed out by him and Carillo to McDonald, the surveyor. He further states, that after the grant of the tract to him he pointed out its boundaries to seven rancheros, his nearest neighbors, that they might know it and recognise it as his property; that he knew what those boundaries were, because the mountains were on one side and the lake was on the other; that these boundaries were the same as those originally designated to him by an Indian chief named Minae; that "Lup-Yomi," in the Indian language, means "Town of Stones," and this tract was so named by the Indians.

José Ramon Castillo testifies to substantially the same facts. After stating the boundaries of the tract, he adds, that its boundaries are natural, consisting of the lake, the mountains, and the river; that the line runs at the base of the mountains, and that he has known it by the name of "Lup-Yomi" since 1840. He further states that Minae, the Indian chief, pointed out the land described by the witness as his land, called "Lup-Yomi;" that he knows of no other land called by that name; and that the adjoining valleys have different Indian names, some of which the witness mentions.

From the foregoing testimony we think it clearly appears, that the description in the grant of the land as that known by the name of "La Laguna de Lup-Yomi" is sufficient to designate its locality; that the premises are identified, and the land severed from the public domain, by its designation under a name which is shown to be that under which it was well known, and which was applied to a distinct and unmistakable tract of land enclosed within great natural boundaries limiting and defining its extent. That such a mode of designating the locality of the granted land is at least as satisfactory as that furnished by the designation of a point of commencement for a survey, we think obvious; for in this case not only the beginning point for a survey, but all the exterior boundaries, are distinctively indicated, and circumscribe the tract, and limit the quantity of the land with such precision, that it has been ascertained on a survey to contain only 12 leagues instead of 16 leagues, the quantity mentioned in the grant.

No other reasons for rejecting the claim than those we have been considering are contained in the opinion of the commissioners, nor has any other been suggested in this court by the district attorney. Neither the genuineness of the grant nor the authority of the governor is disputed, nor is any other objection to the validity of the claim than those already considered perceived by the court.

A decree confirming the claim of the petitioners must therefore be entered.

It will be perceived from the foregoing that the decree in this case proceeds upon the ground that the grantee has fully complied with the conditions of his grant, and that the description of the land in the grant is abundantly sufficient to ascertain its locality and to effect its severance from the public domain. The question discussed in the first part of this opinion might therefore with more propriety have been considered in some other case necessarily requiring its determination. But the importance of the question, and the fact that it was elaborately argued at the bar as applicable to this case, have induced us to take this occasion fully to express our views upon it.

Decree.

United States District Court for the northern district of California.

HENRY F. TESCHMAKER et als. vs. THE UNITED STATES. } No. 8. Decree.—Stated term, June 27th, 1855.

Appeal from the final decision of the commissioners to ascertain and settle private land claims in California.

This cause coming on this day to be heard upon the pleadings, the certified transcript of the proceedings and decision of the board

of commissioners on private land claims in California, and upon the further evidence taken under the order of this court, and the arguments of counsel being heard on the part of the claimants, and of the district attorney on the part of the United States; in consideration whereof the court is of opinion that the decision of the said board of commissioners rejecting said claim is erroneous, and the same is hereby reversed.

And this court doth adjudge, order, and decree, that the title of claimants to the tract of land known as La Laguna de Lup-Yomi, as described and set forth in the record, is valid, and the same is hereby confirmed to the extent of sixteen square leagues, the quantity specified in the original grant set forth in the record, and for no more: provided, that the said quantity of land granted and now here confirmed be contained within the boundaries of the said tract of land known as the Lup-Yomi, to which the said grant and proceedings refer; and if there be less than the said above named quantity within the said bounds, then there is hereby confirmed to the said claimants that less quantity; it being apparent that the said quantity exceeds the minimum of two hundred varas square, as prescribed by the ordinance of the 21st of November, 1828, of the Mexican government.

M. HALL McALLISTER,
Cir. Judge U. S., Dist. of Cal'a.
OGDEN HOFFMAN, JR.,
U. S. Dist. Judge.

Vide amended decree, entered March 2, 1857.

Notice of Appeal.

District Court of the United States, in and for the northern district of California.

H. F. TESCHEMACKER et al., Appellants,
vs.
THE UNITED STATES.

SIR: The United States intend to appeal from the final decree of the court in this cause.

S. W. INGE, *U. S. Dist. Att'y.*

To JOHN A. MUNROE, Esq., *Clerk.*

Endorsed: Filed June 27th, 1855.

JNO. A. MUNROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

At a stated term of the district court of the United States of America for the northern district of California, held at the courthouse, in the city of San Francisco, on Thursday, the 28th day of June, in the year of our Lord one thousand eight hundred and fifty-five. Present, Hon. M. H. McAllister, circuit judge; and the Honorable Ogden Hoffman, jr., district judge.

Order Granting Appeal.

THE UNITED STATES, Appellants,
vs.
H. F. TESCHEMACKER et al., Appellees., } No. 8.

In this case, on application of the United States attorney made in open court, it is ordered by the court that an appeal on behalf of the United States from the final decision of this court rendered in said cause at the present term be, and the same is hereby, granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed June 28, 1855.

JNO. A. MUNROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Notice of Appeal.

District Court of the United States for the northern district of California.

H. F. TESCHEMACKER et al., Appellants,
vs.
THE UNITED STATES.

SIR: The United States intend to appeal from the final decree of the court in this cause.

S. W. INGE,
U. S. Dist. Att'y.

To THORNTON & WILLIAMS, Esqs.

Endorsed: Filed June 28, 1855.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Petition to modify Decree.

To the honorable the Judge of the United States District Court for the northern district of California:

Henry F. Tecschmacker, Joseph P. Thompson, George H. Howard, and Julius K. Rose, the claimants in this case, being No. 8 on the docket of land claims in this court, together with Salvador Vallejo, respectfully represent to your honor, by this their petition in the nature of a bill of review, that in the record and final decree had in this case a mistake has occurred, which we humbly pray may be corrected by the opening of this said case, and upon rehearing that the final decree be amended so as to do complete justice to the parties interested. Your petitioners humbly pray that the said Salvador Vallejo, one of the original grantees in the grant presented in this case, be made a party, and that the decree be so amended as to confirm to him two leagues of the sixteen leagues

which were originally granted, and which have been confirmed by this honorable court to the said Teschemacker and others.

The records now in this honorable court show that there was pending, at the same time with the claim of the said Teschemacker and others for fourteen leagues of the said grant, as claimants by mesne conveyances from the said Vallejo, a further claim by the said Vallejo for two leagues, part of the said original grant; which claim by Vallejo was presented by way of supplemental petition to the claim of the said Teechmacker and others, to be adjudicated in the same case; all which will fully appear by reference to the records of this honorable court, and, for convenience, a certified copy of the said supplemental petition, transmitted to this court from the board of land commissioners, is herewith filed and prayed to be taken and considered as a part of this case. The claim of said Vallejo for the said two leagues was not regarded and attended to as a separate and distinct case of claim from that of Teshmaker and others, because, as a supplement to that claim, which it was by its terms, it should have been attached to it, and have formed a part thereof. In fact, the terms of the decree rendered in this case embrace the whole land contained in the Mexican grant. And your petitioners now humbly pray your honor to open the case and to amend the record and decree, so as in effect to consolidate the claims improvidently separated by the secretary of the land commission, and to remodel the decree so as to conform to the record as it ought really to exist; that is, by confirming to Vallejo's grantees, Teschmacker and others, fourteen leagues, and the remaining two to the said Vallejo, according to the terms of his supplemental petition. And your petitioners will ever pray, &c.

H. F. TESCHEMACKER,
JOSEPH P. THOMPSON,
GEO. H. HOWARD,
JULIUS K. ROSE.
SALVADOR VALLEJO,
By his attorney, JAMES WILSON.

Endorsed: Filed March 2, 1857.

JNO. A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

Order allowing Modification of Decree.

District Court of the United States, northern district of California.

H. F. TESCHEMACKER et al.
vs.
THE UNITED STATES. } No. 8.

The petition in this case coming on to be heard, it is, by the con-